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TREATISE

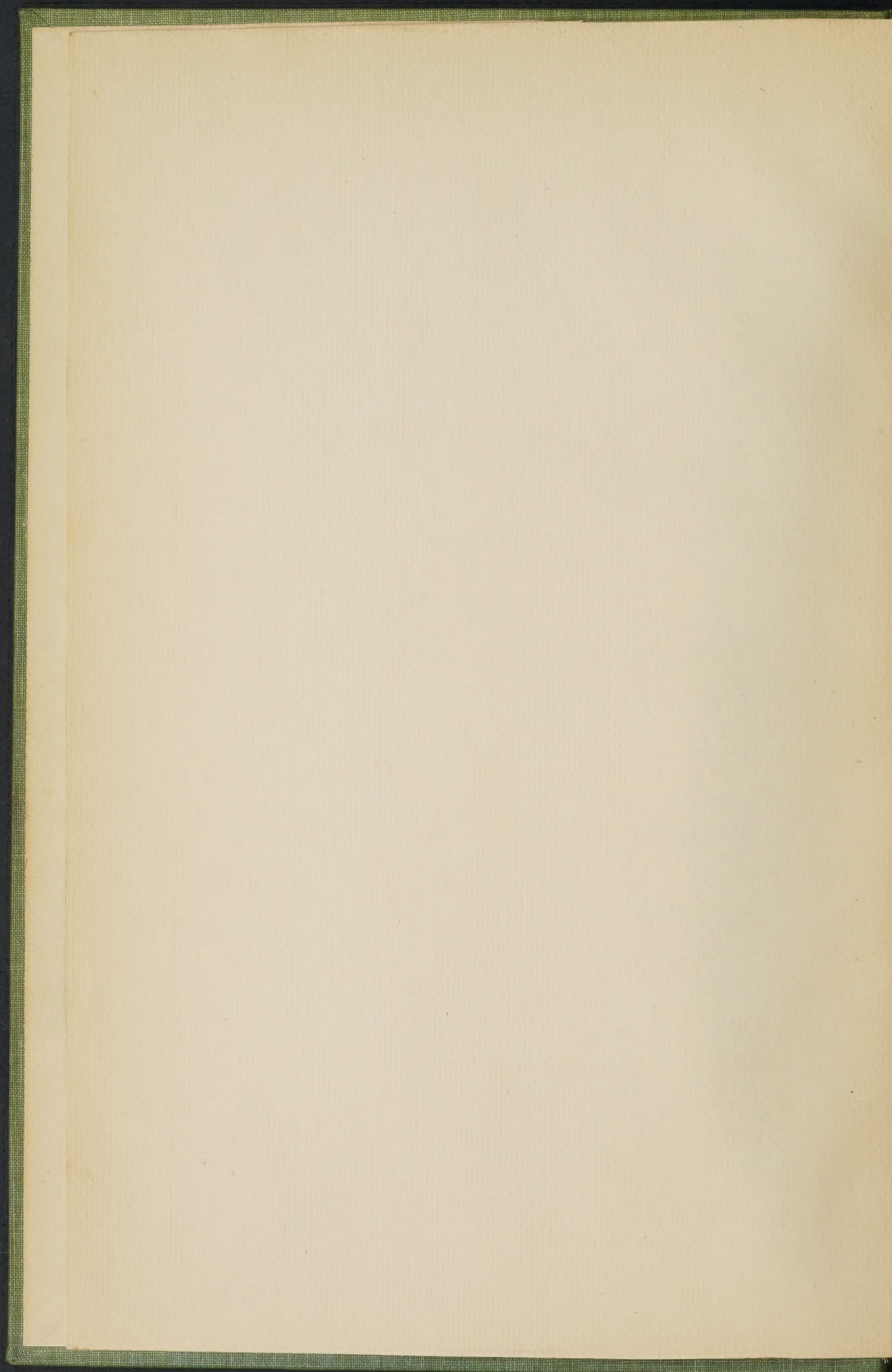
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A
TREATISE
OF
Matters Beneficiary

BY
Fra Paolo Sarpi.

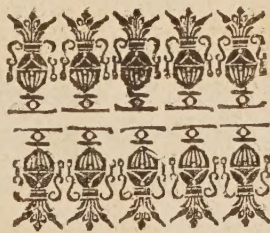
The Author of the History of the Council of *TRENT*.

Newly Translated out of *ITALIAN*, according
to the best and most perfect Copy Printed at
Mirandola, Anno Dom. 1676.

Wherein is Related with the Ground of the History,
how the Almes of the Faithful were Distributed

IN THE
PRIMITIVE CHURCH.

The Particulars whereof the Table sheweth.



L O N D O N,

Printed by Thomas Hodgkin, and are to be sold by William
Crook, at the Green Dragon, without Temple Bar,
and Richard Bently, in Russel Street, Covent
Garden. 1680.

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THE ATLAS

OF

Matters Beneficial

to

the People of the World

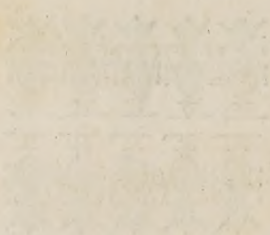
The Author of the History of the Council of Trent
has been distinguished by the Hon. the Secretary of State
to the Lord and Great Council of Great Britain
by a Letter of Introduction to the Hon. the Secretary of State
of the Admiralty, and the Hon. the Secretary of State
of the War and the Navy.

It is a pleasure to the Author to be permitted to
show the Author of the History of the Council of Trent
in the History of the Council of Trent.

IN THE

PRIMITIVE CHURCH

The Primitive Church of the Apostles



Printed by Thomas Eggar, and sold by the Booksellers,
in the Strand, near the Old Bailey, and in the City,
at the Sign of the Anchor, in the Strand, near the Old Bailey,
and at the Sign of the Anchor, in the Strand, near the Old Bailey.

TO THE
KING'S
MOST EXCELLENT
MAJESTY,

May it please your Majesty,



TO give me leave most humbly to offer unto your Majesties perusal, a small *Posthumus* work, of a poor *Theatine* of the Order of *Servi* newly taught *English*, who Lived and Dyed in the Communion of the Church of Rome, yet happily as worthily Great, as that or any other Age, either before or since hath produced. Great, for universal Learning, for wisdom in Councils, for discerning right reason from Sophistical-School-quirks, for faithfully recording *Antient Monuments* and *customs* of the Church, so that every one that reads them may safely swear, not only to the truth, but to the Impartiality of them, being written without respect to this or that Church in particular, but to *Holy Church* in general. Great, for soundness of Judgment, for admirable dexterity in summing up intricate, wrangling and prevaricating disputes, into short perpicuous and pithy Results : Great also, for Holyness of Life and Conversation, contentedness and moderation of desires, not seeking high things for himself (thereby imitating Christ himself, who when the *Multitude* would have taken him by force to make him a King, withdrew himself into a Mountain alone) never altering his Habit, Condition, or Cell, though esteemed the very Oracle of *Venice*; who stoutly, yet with great Modesty and Reverence towards his Holy Father the Pope, defended the just Rights of that *Wise Republick*, against his *Holiness* and all his Conclave, to his eternal Honour, confounding all the wits (which were not few) of that Age by the effort of invincible reason, fairly appealing to the Judgment of all the world by his Pen, and at the end and close of the Accommodation, refusing to give Rome it self the satisfaction, though but of words, and esteemed as insignificant the Popes Breve offered for taking away his Censures and his Instrument

of

The Epistle Dedicatory.

of *Absolution*, and the *Instrument* for the *delivery* of the *Prisoners*, and the *decree* of the *Senate* for the *Restitution* of the *Religious*, &c. All wyles and tricks of the *Court* of *Rome* granted (Covertly and with design to *Cajole*) unto the *Cardinal* of *Joyeuse*, which they did not dare to divulge in formal *Copies*, but only dispersed under-hand some *Abridgements* of them to *Amuse*, and cheat the *World*. He so *Confounded* the *Jesuits* that that *State* so *Solemnly* *Banished* them their *Dominions*, that they were never to be re-admitted, nor the *Decree* revoked, unless the whole *Process* against them were first read in full *Senate*, whereof five parts of six should give *Suffrage* for their *Revocation*: And who, though by the *Constitution* of that *Republick*, as an *Ecclesiastick* could not formally sit in their *Council*, yet that *State* had that *Esteem* for him, that they so far dispensed, as that he was permitted to sit therein behind a *Curtain*, that he might be *Master* of all their *Debates* and *Advisoes*, and in due time and place give his own. I might add much more concerning the *Articles* of his *Faith*, whereof there are 54 at the end of his *History* of the *Inquisition*; Published in *Latin* by *Andreas Colvius*, Printed at *Rotterdam* 1651, where he is Stiled *Splendor & Ornamentum Orbis*, the *Glory* and *Ornament* of the *World*, but I forbear, lest under pretence of an *Epistle Dedicatory*, I should seem to write an *Epitaph*. If I have too far transgress'd already, I can only plead for my excuse, that he being rested from his *Labours*, it is but just, that his good works should follow him, and his praises celebrated.

This very work of his, though small in *Bulk*, yet very rich in *Cargo*, not only for the *Excellency*, but for the *Curiosity* and *Rarity* thereof, there being nothing Extant so succinct, particular and exact, for full, perfect and distinct information comparable to it, nor so methodically declaring their genuine *History* and pedigree of their first *Institutions* and right uses, the *Alternate Gradations* of their rise, growth and deviations by which they degenerated into *Abuses*, and seems as if it were Calculated for the very *Nursing Fathers* of *Holy Church*, of which your Majesty being the great defender, the *Dedication* hereof hath so just a pretence to your favourable *Acceptance* and perusal, that it would be injurious to your Majesty to doubt thereof. I pray God guide your Majesty with his *Councils*, while you *Live*, and afterwards receive you to *Glory*. So Prayeth

Your most humble and dutiful
Subject and Servant,

WILL. DENTON M.D.

The

THE PRINTER TO THE READER

I Think it my duty to advertise thee, that I have Printed this small Treatise in this large Volume, that it may suit and be Bound with the Authors other small works, lately Printed with his History of the Council of Trent, to which ere-long I hope more may be added. And the Numbers of the following Index, relate and Correspond to the Numbers in the Margent of this Edition, as also to the Pages in the Italian Copy.

I hope there are no Errata but Litterals, only p. 75. n^o 223, l. 15. for Obverting, read Advising or Intimating.

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Z

Zeal fals to enrich the Church.

A
TREATISE
OF THE
Beneficiary Matters,
OF

FR A P A O L O S A R P I.

Wherein is related, with the Ground of the History, how the Almes of the Faithful were distributed in the primitive Church.

HE antient Fervor of Christian Charity being grown cold, which not only moved Princes, and private Persons to give temporal Riches plentifully to the Churches; but also induced the Ministers of the Church to bestow them holily on pious occasions, it is no wonder if at present faithful Stewards seem to be wanting, and others diligent only in gaining and retaining have succeeded in their stead, so that it hath been necessary to moderate by Laws the excessive gains, and a continual desire is kindled in godly men to see the Administration of the goods possessed by the Churches once more restored, if not to that antient Exemplariness, at least to a tolerable Moderation.

The Defects which appear to us in these dayes, entered not into the Clerical order all together, neither grew they so Excessive at one instant of time; but from a supream, or rather from a divine Perfection they descended by degrees unto Imperfection, which is now manifest unto all, and confessed by the Clergy it self, and by some esteemed irremediable: Notwithstanding that if it pleased God our Lord to give unto his faithful as much grace as he gave to our forefathers, we should not loose the hope of seeing the same wonders yet in our Age: It is indeed necessary that as by Degrees we came to this depth of Misery, so by Degrees we may ascend towards that height of Perfection in which the Holy Church was. The which cannot be done, but by knowing what was the *Administration of temporal things* from the Beginning, and how this good Government came to fail, it is particularly necessary before all things, to tell how the Church from time to time acquired temporal Riches, and how upon each alteration it ap-

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2.

3.

pointed Ministers to bestow, or to possess them, which will discover to us the hindrances which in these times prevent a good Reformation, and will shew how to overcome them; and this is my Design in the present Discourse so ample concerning beneficial matter.

4. The beginning of Ecclesiastical Benefices was whilst our Lord Jesus Christ, Converſed in this world, and their *Stock* was nothing else but the *Oblations of Pious and devout Persons*, which were kept by a Minister, and distributed for two works only; one for the *Necessities of our Lord*, and of the *Apostles preachers* of the Gospel; and the other for *Almes to the Poor*. All this is clearly seen in *St. John*, where the Evangelist says that *Judas* was he who bore the *Purse*, wherein was put the Money presented to our Lord, he spending the same, and buying things necessary for them, or else distributing to the Poor according to what our Lord commanded for the day. *St. Augustin* considers that Christ having the Attendance of Angels who Ministred unto him, was in no necessity of keeping or preserving of Money: nevertheless he would have a Purse, to give an example to the Church of what she ought to do, and therefore the Church alwayes understood that from his Divine Holyness by his own Example the Form of the Ecclesiastical Money might be instituted, instructing from whence it should be taken, and wherein it should be laid out. And if in our dayes we see not this holy institution observed, we ought to consider that for our instruction, and for our consolation the Divine Scripture relates, that then *Judas* also was a *Thief*, and usurped to himself the goods common to the *Apostolical Colledge*, and came to such a Height of Covetousness, that what he stole seeming not sufficient for him, he proceeded so far in wickedness, that he sold to the *Jews* the very person of Christ our Lord, to make his sum of Money greater. And if we either in reading Histories, or else in observing things occurrent in our Times, we shall believe that Ecclesiastical Goods are in a great Part spent in other uses than Pious, and that some of the Ministers not content of usurping to themselves that which ought to be in common to the Church, and to the Poor, have gone so far as to *sell Sacred things and Spiritual Graces to make Money*, we ought not to refer this to a Particular Misery of our or of any other times; but to ascribe it to the Divine Permission for the Exercise of the Good, considering that the Beginning of the *Infant Church* was subject to the same Imperfections: Indeed we ought every one according to his Degree and Vocation to procure a Remedy, and he that cannot do otherwise by his Prayers, and he that can hinder the Evil by preventing and opposing the Abuses, considering that although *Judas* had no humane Punishment, because those who ought to have punished him were Complices in his Offence, nevertheless divine Providence shewed what Penalty he deserved, and appointed that he should be his own Executioner, for a Document of what those ought to do, who are given for *Tutors and Defenders* of the Church in following Ages.
6. After Christ our Lord had ascended into Heaven, the holy Apostles followed in the Church of *Hierusalem* the same Institution of having the Church money for the two Effects abovesaid, that is, for the *Need of the Ministers of the Gospel*, and for *Almes to the Poor*: and the Stock of this money was likewise the *Oblations of the Faithful*, who also making all their Goods common, sold their Possessions to make money for this use: So that the Community of the Church was not di-

7.

After Christ our Lord had ascended into Heaven, the holy Apostles followed in the Church of *Hierusalem* the same Institution of having the Church money for the two Effects abovesaid, that is, for the *Need of the Ministers of the Gospel*, and for *Almes to the Poor*: and the Stock of this money was likewise the *Oblations of the Faithful*, who also making all their Goods common, sold their Possessions to make money for this use: So that the Community of the Church was not di-

ſtinct

distinct from the Particular of each faithful Man, as is practized still in some Religions which observe those first Institutions.

The *Christians* in those primitive Times were very ready to strip themselves of their Temporal Goods, to bestow them in Almes, because they looked for the end of the World to be at hand, Christ our Lord having left it to them uncertain, and although it was to last as long as he pleased, they considered it no otherwise but as being to end then, holding for certain that the Figure of this World, that is, the State of this present Life passeth away; wherefore the *Oblations* encreased alwayes the more; yet the *Custom* of not having any thing of ones own, but all things in Common, so that there was neither poor nor rich, but all lived equally, *went not out of Hierusalem*; For in the other Churches which the Holy Apostles planted, it was not instituted, neither did it last long in *Hierusalem*.

8.

Whereupon 26 years after the Death of Christ it is read that the publick was distinct from the private, every one knowing his own, but the money being common in that Church as in others founded in *Oblations*, which placed in Common, served for the *Ministers* only and for the *Poor*, and it was not Lawful for him, who had wherewithal of his own, to live upon the Churches Stock; whereupon St. Paul ordained that Widdows who had Kindred should be relieved by their Relations, that the Church Goods might be sufficient for those who are widdows indeed, that is, Widdows and poor.

The first day of the week which for that cause was called the *Lords day*, the Faithful met together, and each one offered that which he had set apart of the foregoing week for the *Necessities of the Common*.

9.

The care of these Goods which our Lord whilst he was in this Mortal Life gave unto *Judas*, was administred by the Apostles themselves for a short Time after the Ascension, but afterwards perceiving that Murmurings and Seditions did arise amongst the Faithful, about the Distributions that were made, it appearing to some that they were not so great Sharers of the Common, as they willingly would have been, and believing that others had more than they ought, so as the Common Evil in all Times in dispensing the Goods of the Church, the Apostles knew they could not attend this perfectly, together with preaching of the Word of God, they determined to retain to themselves the Ministry of Preaching and teaching, appointing for this Office of having care of Temporal things, another sort of Ministers quite different from that which we see done in our Times, wherein the chief Prelates of the Church attend the Government of Temporal things, and the Office of Preaching and teaching the Word of God, and the Doctrine of the Gospel is left unto the *Fryars or Brethren*, or to some inferior Priests in the Church.

10.

But these new Ministers which the holy Apostles instituted for governing Temporal things were called *Deacons*, for which purpose Election was made of six from all the *Body of the Faithful*, which the Apostles appointed for that Ministry, and wheresoever they founded a Church, they also appointed *Deacons* in the same Manner, as also they ordained *Bishops* and *Priests* and other Ecclesiastical Ministers, Fasting and Prayer preceeding, and the Common Election of the Faithful following after, Observing inviolably this order of never deputing any man to any Ecclesiastical Charge, who was not first elected by the

Deacons.

- universality of the Church, which is of all the Faithful together.
11. This *Custom* continued in the Church in such a Manner for about 200 years, maintaining the Ecclesiastical Ministers, and the Poor also with the publick Goods, there being no other Stock but the *Oblations* which were made by the Faithful in the Church, which *Oblations* were in great Abundance, because out of Fervency of Charity every one offered all that he could according to what he had, so that when the means of the Faithful in one City were abundant for the supplying the wants of their own Church, *they made Collections for other poor Churches also*: For which cause St. James St. Peter and St. John, when they acknowledged St. Paul and St. Barnabas for Consorts and Companions in the Gospel, they recommended this Work unto them, to Collect some *Almes* for the poor Church of *Hierusalem*, for which St. Paul also mentions the having *made a Collection in Macedonia, in Achaia, in Galatia, and in Corinth*, and this Custom was observed not only during the Apostles Life times, but also after their Death; and in the Church of Rome where Riches were plenty, the Offerings also were Abundant, for about the year 150 they not only served to Maintain the Clerks and poor Christians of that City, but also to administer abundantly unto other Churches, not only to the Neighbouring, but also to those at a Distance, giving Food in divers Provinces unto poor and miserable Christians Condemned to Prisons, and to working in Mines, and to shew the Abundance of the Oblations, I shall only say this that *Marcion* about the year 170, made an Oblation in the Church of Rome at one time of 5000 Crowns of Gold, and because he had certain Opinions not Convenient in Matter of Faith, he was expell'd from the Congregation, and all the money restored to him, that holy Church esteeming it self polluted in retaining the Goods of a Heretick.
12. Afterwards the Church of Rome encreased so in Treasures, that after 220 years the Roman Emperors were desirous of them; whereupon Prince Decius Arrested St. Laurence a Roman Deacon to take the Ecclesiastical Treasures from him, they being grown so Copious; but that Prince was Mistaken, believing that the Treasures were Collected and preserved, for that holy Deacon was aware of the Tyrants Greediness, and foreseeing the imminent Persecution bestowed all at one time, as they were wont to do in such like Dangers; and the most part of the Persecutions made against the Church after the Death of Commodus were for that Cause, that is, because the Princes or the Governors finding themselves short of Money, were willing to make themselves Masters of the Christian Churches Stock that way.
13. After the Churches were enriched, the Clerks also began to live more at ease, and some not being content with the ordinary daily food of the Church, would live separately in their own Houses, and receive from the Church their separate proportion in Money every Day, or for a Month together and longer; a thing which although it declined from the Primitive Perfection, was nevertheless tolerated by the Fathers. Besides, the disorders did not stand at this stay, but the Bishops began to fail the Poor in their usual Almes, and to keep for themselves that which ought to be distributed, growing rich with the Common Goods of the Church, dealing in usury for to encrease them, and leaving off the care of teaching the Doctrine of Christ, all busied themselves in Covetousness, which things St. Cyprian laments that they were practised in his time, and concludes that God (to purge his Church
14. of

Marcion.
A^o. 170.

A^o. 220.
Decius the
Prince.

of these Errors) might permit that great Persecution which was under the Empire of *Decius*, because his divine Majesty hath alwayes reformed his Church, either mildly by the means of Lawful Magistrates, or when the Excess is gone too far, by the Instrument of Persecutions.

But although the Church possessed so much wealth, yet it had no settled or Stable Goods; first, because they cared not for any upon the Reason abovesaid, for they esteemed the End to be at hand, and all Worldly things to be Transitory, and of a great weight for one who tends towards Heaven; and again because no Society, Colledge, Communalty, nor Corporation according to the *Roman Laws* could be given to, bequeathed, or have left by Will, any Goods immovable, nor for any cause whatsoever, could possess the same, unless it were approved of by the Senate, or by the Prince; neither can this be doubted of, although, Some Epistles goe about under the Names of old Popes, which give a Reason why the Apostles should sell their Possessions in *Judea*, and the succeeding Christians should preserve them, by saying, that was because the Apostles foresaw that the Christian Church ought not to remain in *Judea*, but indeed amongst the Gentiles, as if in the Gospel the cause of selling were not expressly shewn when Christ said to his Church: *Fear not, O little Flock; sell what ye possess and give Almes*, that although *Hierusalem* were destroyed, at its Building again there might be an Abundance of Christians, and yet have not been destroyed in the Cities where the Churches amongst the Gentiles had Possessions; But labouring to shew this Falsehood is superfluous, being a certain thing that these Epistles are *Supposititious*, and were framed about the year 800, by those who prefer'd (as is still done at this present) Riches and Poms to the Apostolical Moderation Instituted and Commanded by Christ: But the Confusion which was much continued in the Empire after the Imprisonment of *Valerianus*, the Laws being but little observed, chiefly in *Africa*, in *France*, and in *Italy*, some left or gave Stable Goods to the Churches, which in the year 302, were all confiscated by *Diocletian*, and *Maximian*, though in *France* the Emperors Decrees were not Executed by the Bounty of *Constance Cloro Caesar* who Governed it; But these Princes having renounced the Empire, eight years after *Maxentius* restored all the Possessions to the Church of *Rome*, and a little after *Constantine*, and *Licinius* granted freedom of Religion to the Christians, approved of the Ecclesiastical Colledges call'd Churches, granted generally throughout the Empire, that they might gain or acquire Stable Goods as well by Gift as by Testament, exempting also the Clergy from personal publick Services, that they might attend the duties of Religion more Commodiously.

The Custome of our times of giving or of leaving ones Estate to the Church, with a special obligation of some particular work, as of Building, of Marrying young Damfels, of providing for Orphans, or others, neither with Obligation to Masses, Anniversaries, or to other Ecclesiastical Offices were not then in Account, nor in Use for a long time after; But Persons gave or bequeathed absolutely, and the Gift or Legacy was incorporated into the Common Mass, which was the Stock for the Expences of all pious Works, wherefore speaking of ancient Ecclesiastical Goods, it is most true that they are not dedicated to any particular Work, but it is not true that they may be laid out in what a man will, but in the generality of Pious Works only. The Exemptions

No Stable
Goods at first.

15.

16.

40. 800.

17.

Exemptions
of Ecclesia-
sticks.

18.

ons

Exemptions
of Ecclesiasti-
cal Goods.

19.

ons which Princes granted unto Ecclesiastical Goods, freeing them from publick Contributions was a great encrease to them, and it was formerly observed every where inviolably, with great satisfaction to Princes, and *with the Approbation of the People*, for it proved not dammageable to the Publick, nor burdenson to the Commonalty for two Reasons, one, because Ecclesiastical Goods were finally the Poores of the People, and exempting those who had not, and leaving the Contributions to those who had wherewithal, was alwayes accounted just; the other, because Exempting a man when he hath little, and less than what sufficeth, is no Burden unto others. Nevertheless *no man should infer* that the same liberality of Princes towards the Church, would be just and Convenient in these times also when it is grown so Rich, that it possesseth a quarter, and without doubt more than what the remainder of the Persons, and this is not *laid out any longer for the Poor*; so that to Exempt them would be contrary to what good Princes have done, in Exempting the Rich, and in laying their due burdens on the Poor. Wherefore the Princes at present are no less pious than those then, but the *Subject is different*: For these would also grant Exemptions to the Church if it were poor, and those would not have granted it, if it had been Rich.

20.

The great Devotion of Princes and of the People, as it caused the Wealth of the Clergy to encrease abundantly, so it excited a great Thirst in the Ecclesiastical Ministers, to Multiply it or heap it up; from which excess not so much as the wel-minded men were free; for seeing how the Distribution of Ecclesiastical Goods fell to the Glory of God, and to the Common Good, they concluded that the more the Church had to Distribute, the better it was, whereupon they made use of all Wayes and of all Arts to gain Wealth, *not considering whether the Means they used were Lawful and suitable unto Equity*; so that if the Effect did but ensue, *viz.* that the Church might gain by any means whatsoever, She seemed to have made a Sacrifice unto God: And certainly immense and innumerable Evils proceed from this sort of Zealous Persons, who do not use Discretion with their Zeal, because it seeming to them that every thing sent for A Religious End by what way soever to be Good, they oftentimes Act against Piety and against Humanity, putting the World into a confusion; thus it happened in the Primitive times, that the Church obtained Power to acquire real Estates, it was *believed by some Religious Men*, to be a *Service of God* to deprive their own Children and Kindred, to give to the Churches, for which cause also they Omitted no Art to induce Widdows, Damfels, and other easie Persons to deprive their own Families, to leave to the Church: The Disorder passed so speedily the Bounds of being overcome, that the Prince was necessitated to provide against it, and in the year 370, a Law was made, which although it did not deprive the Churches from Acquiring or Purchasing absolutely, yet it *Prohibited the Clergy from going unto* Widdows Houses and Orphans, and from receiving by Gift, or by Will any thing from Women, not only directly, but also by means of any third Person: Which Law St. Hierome confesseth to have been a Remedy against the Corruptions entred amongst the Clergy, and gone too forward in the Desire of getting Temporal Estates, neither did that suffice; For within few years after, that is in 390, another Law was made, *that a Widdow who devoted her self* to the service of the Church, could not give or leave to it by will any

Statute of
Mortmain.
A^o. 370.

A^o. 390.

any real Estate or precious Householdstuff, which is *discoursed of at large elsewhere.*

This Excess of getting was not very pleasing to St. *Augustin*, who lived in those dayes, for he openly declared, that it pleased him better that Inheritances should be left to the next of Kin, than to the Church, and indeed he refused some Inheritances left unto his Church, saying openly, the Ecclesiastical Ministry consisted *not in Distributing much, but in Distributing well.*

Likewise he reproved a new way the Church had of purchasing found out in those dayes, which was buying real Estates with the Advance made upon the *Incomes or Rent, which way that Holy man alwaies abhorred*, neither would he ever permit it in his Church, for he declared in his publick Sermons, that he had rather live upon the Oblations and Collections which were wont to be made in the Primitive times of the Church, than to have a Care of Possessions, which were *burdensome* to him, and hindered him from attending *intirely* upon the Principal Charge of a Bishop, that is, of Spiritual things; adding further, that he was prepared to renounce all Possessions, if a livelihood were provided for the Servants of God, and Ministers, as in the old Testament, by way of Tythes or of other Oblations, without being subject to the *Distracti-
tion*, which the Care of Earthly things brought along with it.

But for all the Checks of the Holy Fathers through their good Exhortations, and of the Princes by their good Laws, the Ecclesiastical Goods could not be hindered from encreasing above what they ought, only the ancient manner of Governing and of bestowing them remained and lasted till the year 420, without any notable Alteration; Besides all the Oblations and other Ecclesiastical Incomes proceeding from Real Estates were in Common, and governed by the *Deacons* by the *Sub-Deacons*, and by other Stewards their Assistants, and Distributed for the Maintenance of the *Ecclesiastical Ministers* and of the Poor; the Colledge of Priests and the Bishop were principally the Intendants, and in short an Account of all Receipts and Disbursements was kept, so that the *Bishop Disposed of every thing, the Deacons Executed it*, and all the Clergy lived upon what the Church had, although all did not administer. St. *John Chrysostome* makes mention that in those dayes the Church of *Antioch* fed above 3000 Persons at the *Publick Expence*: 'Tis also a thing certain, that the Church of *Hierusalem* bore the Expences of an infinite Multitude of Persons, which happened there from all parts of the World. It is Recorded in Histories that *Atticus* Bishop of *Constantinople*, Assisted the Church of *Nicea* in *Bithynia* by reason of a great Concourse of poor People in that City, which were Numbred to 10000 in one day.

But after *France, Spain, and Africa* were divided from the Empire, and erected into distinct Kingdoms, and the Succession of *Theodosius* Extinct, *Italy* after the Inundation of divers Barbarous People being fall'n into the hands of the Kings of the *Goths*, and the *East* divided from the *West*, the Churches were also *differently Governed*, the *Eastern* Church followed the Common Government already instituted; In the *Western*, the Bishops by Administrators and Superintendents began to make themselves *Masters*, and to Govern the Goods of the Church in an *Arbitrary manner*, from whence proceeded a great Confusion, in the Distribution of the said Goods, and chiefly to the *Dam-
mage of Buildings, which fell to Ruin, and of the Poor who were for-
saken*:

22.

23.

24.

Division of
the East from
the West.

25.

A^o. 470.
Division of
Goods Eccle-
siastical.

page 26.

taken : For which Cause about the year 470, 'twas ordained in the Western Church, that *four parts should be made*; one should be the Bishops, the second for the other Ministers, the third for building of the Church (which Comprehended not only the Building of the Place where the People met together, but also the Habitations of the Bishops, and other Clergy-mens, and of the sick and Widdows) and the fourth for the Poor : But these Poor amongst most of the Churches as St. Gregory relates, were meant only the Poor of the place, *because all the Hospitality belonged to the Bishop*, who upon the Expence of his own Portion was Obligated to Lodge the Forraign Clergy, and to feed the Poor which came from abroad. Yet 'tis not to be believed, that this Division was in four *Arithmetical* and equal Parts, but *Proportionably*; because in some Churches the Number of the Clergy required, that their Expences should be greater than for the Poor; on the contrary the great Number of Poor, and the small Number of Clergy-men required otherwise, even as in the greatest Cities, the Charges of Building was great, but not so in the ordinary ones; because every Church accepting the Decree of Dividing into four parts, made the Divisions with different proportions, according to their own different Necessities.

I know that some do attribute this Division to Pope *Sy'vester*, who was 150 years before, grounded upon some feigned Scriptures after, with little Honour to that Age, which was not then much Polluted.

A^o. 359.

27.

A^o. 550.

In the *Theodosian Codicil*, there is found a Law of *Constantius* and *Julian*, in the year 359, Exempting the Marchant-Clergy from paying Custome or Tribute, because what they gained, was the Poores; so far are we that the Church Goods should be Divided, that they left their gains in Common, but in these years which were about 500, although the Rents were Divided into four parts, yet the Estates were not Divided, neither the real Estates, nor the Oblations and Almes, but all Governed together by the *Deacons* and *Sub-Deacons*, and the Incomes Divided into four Parts; which thing hath been necessary to be mentioned in this Place, because in Succeeding times, there will be declared such a change of Government, which in and through all things proved Contrary to the Antient, *as also the Manner of Chusing Ministers was*, (as is above said) Instituted by the Holy Apostles, that Bishops, Priests, and other Ministers of Gods Word, and the Deacons Ministers of Temporal things, *should be Elected by the Universality or Generality of the Faithful, and should be Ordained by the Bishops*, with laying of Hands on the Head, a thing which lasted without alteration.

Election of
Bishops &
als.

28.

The Bishop was chosen by the People, and Ordained by the Metropolitan, in the Presence of all the Cumprovincial Bishops, or else by their Consent granted by Letters from those who could not be present, and if the Metropolitan was hindred, the Ordination was made by three of the Neighbouring Bishops, with the Consent of him, and of those that were Absent : And after that, many Provinces for a better Form of Government were Subject to one *Primate*, his Consent was also required for Ordaining. Then the *Priests, Deacons, and other Clergy-men were presented by the People*, and Ordained by the Bishop, or else Nominated by the Bishop, and with the Consent of the People Ordained by him.

An unknown man was never received, neither did the Bishop ever Ordain

Ordain one who was not approved of and Commended, or rather presented by the People, and the Consent or interveening of the People was *fudged so necessary*, that Pope Leo the first treateth amply, that the Ordination of a Bishop could *not be valid nor Lawful*, which was not required, or *sought for by the People*, and by them approved of, N. 29. which is said by all the Saints of those times, and St. Gregory esteemed that *Constance* could not be Consecrated Bishop of *Milan*, who had been Elected by the Clergy, without the Consent of the *Citizens*, who by reason of Persecutions were retired to *Genoa*, and prevailed, that they should be first sent unto, to know their Will, a thing worthy of being noted in our dayes, when that Election is declared to be Illegitimate and Null, where the People have any Share; Thus things are changed, and passed into a quite Contrary Custome, calling that Lawful which then was accounted Wicked, and that Unjust which then was reputed Holy. Sometimes when the Bishop was grown Old, he nominated his own Successor; Thus St. *Augustin* nominated *Eradius*, but that Nomination was of no value, unless it were first approved of by the People, all which things are necessary to be kept in mind, to compare them with the Customs and Manners, which were seen to be practised in subsequent times.

'Tis necessary now to make a little Digression for a new Cause, 30. which hath brought a very great Encrease to Ecclesiastical Estates, and sprang up in these very times about the year 500, and this was another sort of Religious Colleges, called *Monasteries*. *Monkery began in Ægypt* about the year 300, those who fled from the Persecutions, and from thence past into *Greece*, where by St. *Basil*, about the year 370, it was formed in the manner which yet continues in those Countries. But in *Italy* about the year 350, it was brought to *Rome* by *Athanasius*, where he had but few followers, and little Applause in that City, 40. 500. Monasteries Monkery. 40. 300. and in the Neighbouring Places, until that time of about the year 500, when St. *Equitius*, and St. *Benedictus* gave it a settled Form, and diffused it, though indeed the Institution of St. *Equitius* Extended it self but little, and soon fail'd, but that of St. *Benedict*, spread it self all over *Italy*, and went beyond the Mountains. The *Monks* in those 40. 350. dayes and for a long time after, were not *Clerks*, but *Seculars*, and in the Monasteries which they had without the Cities, they lived upon their own *Labours* of Husbandry, and other Arts, together with some Oblations made them by the Faithful, all which was Governed by the Abbot: But in the Cities they lived by their work, and by that which was appointed for publick Expences by the Church. These retained their Antient Discipline much longer; The *Clerks* after the Stock of the Church was divided, lost sufficiently of the Peoples *Devotion*, whereupon there were few who either gave or left any more Goods to them, so that the Acquisitions and Purchases of the Church would have been at an end; But the *Monks* continuing the living in Common, and in Pious Works, were cause that the Liberality of the People was not extinguished, but forsaking the Clerks turned towards them who were greatly Instrumental in Encreasing Ecclesiastical Wealth, and in progress of time, augmented greatly in Possessions and Incomes, given to them and left by Will, which indeed was then spent by them in the Maintenance of a great Number of *Monks*, and in Hospitality, in Schooling and Education of youth, and in other Pious Works. Monks not Clerks but Seculars. 31.

N. 32. The Abbot *Tritemius* makes account that the Monasteries of *Benedictin Monks* were to the Number of 15000, besides the Prepositures and lesser Convents.

Prepositure. The Monks themselves chose their own Abbot, who Governed them Spiritually, and Ruled also as well the Goods, which came by the Charitable Offerings of the Faithful, as of those which proceeded from the Labour and Art of the Monks, and in progress of time those also which came from settled Revenues; But the Bishops in these dayes which succeeded the year 500, being become absolute Dispensators of the fourth part of the Church Goods, began also to mind more Temporal Things, and to make themselves to be followed in the Cities, whereupon Elections were no more used as the End of Divine Service, but with Seditious Practices, Proceeding oftentimes from Practices, to Publick Violences, for which cause Princes who until then took but little thought of whom should be Elec^ted unto this Ministry, began to bethink themselves of it, being advertised by the Holy men of those times, that God had Committed the Protection of his Church unto them, and therefore they ought by the Command of his Divine Ministry, to take such care that Ecclesiastical Affairs should be Lawfully Managed.

33. The Princes also saw evidently how great Impediments were brought against the Quietness of the State, and against the good Government of the Common-wealth, by the Private Interests of the Ambitious Clergy, and by the Seditious Practices, which they used to acquire Ecclesiastical Dignities; whereupon, partly out of Divine Respect, and partly for Human, they began to prevent the Clergy and the Laity from providing themselves after their way according to their Affections, as well because Affairs being altered and the Bishoprick no more shun'd, but coveted, they made Parties, from whence proceeded Seditions, and sometimes popular Slaughters by means of the Concurrents, as also because sometimes Factionous Persons were chosen for Bishops, who held private Intelligence with the Princes Enemies, which were never wanting in the Western Confusions, and sometimes Persons were chosen, who having gained a Train of People, Attempted some Design to Attribute the Jurisdiction of the Magistrate to themselves, and would stir up the People to Defend their Enterprises; whereupon, the Princes Ordained that no Person Elec^ted, should be Consecrated without their Consent or the Magistrates, the Prince Reserving to himself the Confirmation of the great Bishopricks, as in Italy of Rome, Ravenna, and of Milan, leaving the lesser Bishopricks to the Care of the Ministers; But taking more heed to the Substance of the thing, than to the Appearance, when in a City there was an Eminent Subject known to the People, to whom all were enclined, and the Prince satisfied that he pleased the People, when an Occurrence came, he was Consecrated without more ado: Sometimes also there happened through Accident of War, or of Plague, that one had been Ordained, before he had the Confirmation of the Prince, as happen'd to *Pelagius* the 2d, Predecessor to St. Gregory; Rome being Besieged by the Lombards, after the Siege was raised, he sent Gregory, who was then Deacon, to make Excuse to the Emperor, beseeching him to Confirm what Necessity had Constrained him to do. In this manner Popes were Elec^ted, and Bishops in Italy until the year 750, with the Imperial Confirmation; but in France, and in other places beyond the Alps, the Regal or the Princes Authority was herein more absolute, for the People totally desisted from the Election, when the

Occurrenza.

A^o. 750.

the Prince took it in Hand; good men forbore, because believing themselves to be well provided with Kings, esteemed their Interventions Superfluous; evil men, because they were not certain of being able to bring their Designs to pass; whereupon the Kings gave the Bishopricks to them only throughout the Kingdom.

In all *Gregory Turonensis's* History from *Clodovius*, the first Christian King of *France*, unto the year 590, no Bishop was known to be made but by the Command or by the Consent of the King, and St. *Gregory* N. 36: who was made Pope that year, writing to the Kings of *France* upon different occasions, Complains to them that the Bishopricks were not bestowed on sufficient men, and prays them to make choice of good and understanding men. He never reprehends the Provision made by the Kings, when the Person provided was deserving.

As for Bishops who were chosen without the Authority of the People, it was easie to exclude them also from the Election of Priests, Deacons, and other Ecclesiastical Ministers, reducing the Power of nominating them to the Prince only, without the Intervention of the People, part of them having withdrawn themselves totally from meddling in Ecclesiastical Congregations, to attend their Domestick Affairs, others through the Inconveniencies which did arise amongst popular Factions, and some others for seeing themselves disrespected by the Bishop grown Potent, as well by the Riches he had to spend, as by his Dependance on the Prince, by whom he was Nominated to, or Confirmed in the Bishoprick.

The Prince sometimes Nominated those that were to be Ordained, at other times he left the Care wholly to the Bishop, chiefly when he was fully Confident, which Confidence was also Cause that the Prince oftentimes made use of the Bishop, either to compose Difficulties amongst the People, or to determine Difficult Causes, *the Respect of Religion being the Cause*, that they were more believed than the Magistrates; whereupon they were more intent upon that, than in teaching the *Christian Doctrine*, which at first was given them in Charge; Therefore when making of a Bishop was in Question, it behooved rather to have Respect unto a wise Wordling, than unto one understanding in Matters of Faith, which remains still unto this time, it being said, that excepting the Places bordering on the Infidells, it is better making a Bishop of a good *Jurisconsult* or Lawyer, than of a good Divine; and truly 'tis a reasonable thing, if the Principall Office of a Bishop were to judge Causes. Christ our Lord Ordaining his Apostles, said, *as my Father hath sent me, so send I you*, by which they understood to be sent to Teach: If now all be sufficiently instructed, and there be no more need of it, he may attend somewhat else: Heretofore the Principal Care of the Bishop was to Teach, and the next to oversee the Government of the Poor; so that in the second, as well as in the first, there was some Relaxation, and therefore in making the Division into four parts abovementioned, the Administration of the Goods being in the Hands of the Clergy, and those were they who divided after their way, so that where the Bishop and the Priests were Conscionable men, the Division was Justly made; But where they did not forget themselves (there being none to Protect the Poor, and as few to take Care of the Buildings) the Shares of these two were very small, and in some places nothing belonged to either of them, but all was Divided between the Bishop and the Clergy-men.

37:

38:

- N. 39. Besides also, where the Division was made with due Proportion, nevertheless the Administration of the Buildings, and the Shares of the Poor remaining in the Hands of the Clergy, they came to diminish by little and little, and the other two waxed greater; which evidently appears, for that in very few places the Buildings have any proper Income, and for the Poor there remained nothing but the *Hospitals*, which are of no *Antient Institution*.

In the Beginning the Share of the Clergy was not Divided amongst them, but the Bishop had a Care of dealing with each one according to his Merits, but afterwards they took upon themselves the Office of Dividing, the Bishop being Excluded, and they having their Share, where neither Bishop nor others had to do, they Divided again amongst themselves, so that each Particular man began to know his own, and *ceased from living in Common*. But although the Rents or Incomes were thus Divided, nevertheless all the Stocks or Estates remained in one Body, Governed by the *Deacons* and *Sub-Deacons*, and the Rents proceeding from thence Consigned to the Bishop, and to each one of the Clergy, according to the Proportion of their Shares.

40. *Patrimonies*. And in *Italy* in those times the Possessions of the Church were called *Patrimonies*, which I was willing to mention here, that no man might think that this name may signify any Supream Dominion, or some Jurisdiction of the *Roman Church*, or of the Pope. The Possessions of each Family which came from their Ancestors in the times we speak of, were called the *Patrimony* thereof, and that Estate was called the *Patrimony* of the Prince, which he had in Propriety, and to distinguish it from the *Patrimonies* of Private men, it was called *Sacrum Patrimonium*, as is Read in many Laws of the 12^o of the *Codice*, after which for the same Reasons, the name of *Patrimony* was given to the Possessions of each Church: There are seen named in the Epistles of St. Gregory, not only the *Patrimonies* of the *Roman Church*, but also the *Patrimony* of the Church of *Arimini*, the *Patrimony* of the Church of *Milan*, the *Patrimony* of the Church of *Ravenna*.

41. The Churches placed in Cities, whose Inhabitants were of but indifferent Fortunes, had no Possessions left to them out of their District. But to those of *Imperial Cities*, as *Rome*, *Ravenna*, *Milan*, where Senators and other Illustrious Persons dwelt, Possessions were left in divers parts of the World. St. Gregory makes mention of the Church of *Ravenna's* *Patrimony* in *Sicily*, and of another there belonging to the Church of *Milan*; The Church of *Rome* had *Patrimonies* in most parts of the World.

Mention is made of the *Patrimony* of *France*, of *Africk*, of *Sicily*, of the *Cottian Alps*, and of many others; but in the time of the said St. Gregory, there was a Difference, or suit at Law, between him and the Bishop of *Ravenna*, for the *Patrimonies* of both Churches, which was accommodated by *Transaction*.

42. To gain also greater Respect for the Possessions of the Church, they were wont to give it the name of *Holy*, which that Church had in great Veneration; So the Church of *Ravenna* Nominated her Possessions of St. *Apollinare*, and that of *Milan*, of St. *Ambrose*, and the *Roman* called it the *Patrimony* of St. Peter in *Abruzzo*, St. Peter's *Patrimony* of *Sicily*, &c. After the manner of *Venice*, where the Publick Revenues are called St. Marks. As for the *Patrimonies* of Princes when they were not appointed to the Souldiers, a Governor was placed with Jurisdi-

Jurisdiction over Causes which concerned that Possession: Some Clergy-men there were of the *Roman Church*, who endeavoured to usurp such Rights in the *Patrimonies* of that *Church*, being willing to right themselves without having Recourse to publick Judicatures; which Introduction St. Gregory Rebuked and Condemned, forbidding the doing of it upon pain of *Excommunication*. Ecclesiastical Possessions paid Tribute to the Prince, as appears manifestly by the Canon, *Si Tributum*, Tribute. which is St. *Ambrose*. And it is clear, that *Constantinus Pogonatus* in the year 681, granted an Exemption from the Tributes which the *Roman Church* paid for the *Patrimony* of *Sicily* and *Calabria*. And *Justinian Ritmeno* in the year 687, remitted the Tributes which the *Patrimonies* of *Abbruzzo*, and *Lucania* paid. 681.
Exemption of
Tributes.
687.

The *Roman Church* received not such great Incomes from its *Patrimonies* as some believe; because as Histories relate, *Leo Isaurus* in the year 732, Confiscated the *Patrimonies* of *Calabria* and *Sicilia*, both which are mentioned to yield three Talents of Silver, and half a Talent of Gold, which make in our money (not to lessen the Account upon the variety of Opinions how much answers each Talent exactly) no greater sum than 2500 Crowns, and the *Patrimony* of *Sicilia* much larger paid no more than 2100 Crowns. N. 43.
732.

It is not beside the Subject of our Discourse, to know the Particulars which hapned whilst the Possessions of the Church remained in an entire Body, and under the same Government although the Incomes were divided, which could not last long by reason of the *Contentions* which arose amongst those to whom the *Administration* belonged, and the others who remained upon their own Discretion. Whereupon for greater Expedition, each *Minister* began to retain the Oblations for himself which had been made in his Temple, the which formerly were wont to be carryed to the Bishop, that he might divide them, but for an acknowledgment of the Episcopal Superiority, each one gave the third part to the Bishop, and something over and above for Honour, which was called afterwards *Cathedraticus*, because it was given out of Re- 44.
Cathedraticus verence to the Cathedral or the Episcopal See.

Moreover they divided the Estates, and appointed every man his own share, but these Alterations were not made in all places at once, nor by a publick Decree, but as the Uses and Customs hapned to all, they began in some places, and Communicated them Successively unto others, chiefly the bad ones which have the swiftest Course, and the least hindrance.

In those dayes when the Ecclesiastical Affairs were reduced to this Condition, the Publick Stocks or Estates were Distributed by the Princes unto *Military men*, with a charge that some should keep the Marches or Borders, some should serve the Prince in Civil Governments, some to follow him to the Wars, some were to Guard Cities, Forts, or Strong-holds, and they were termed or called *Frank*, or *Fees*, by the *Lombards*; and in the *Latin* Tongue, which was not yet extinct they were called *Beneficia*, as given out of the Princes Beneficency, for which 45.
Benefices Respect also the name of *Benefice* was given to the *Portions* of Ecclesiastical Estates, or to the Right of Possessing them, because they were given by the Prince, as Bishopricks, or by the Bishop; of whose Consent and Concession other Livings are bestow'd; and also because Clergy-men are *Spiritual Souldiers*, keeping Guard, and exercising a Sacred Warfare.

The

Abbeys.

Maestri di Palazzo.

The *Abbeys* beyond the Alps were at last made more ample and more Rich, by reason the *Masters of the Pallace* assumed to themselves the Authority of making the *Abbot*, and that with a reason apparent enough, because the *Monks* then (as hath been said) were *Laymen without*

N. 46. *any Ecclesiastical Ordination*. It is true, they did not alwayes give him to them, but sometimes out of favour he granted the *Monks* leave to choose themselves one. But in *Italy* the *Monasteries* being not very considerable in wealth, untill the year 750. the *Kings* of the *Goths*, then the *Emperors*; and the *Kings* of the *Lombards*, made no great Account of them; whereupon the *Election* was left to the *Monks*, with the sole superintendency of the *Bishop*. But the *Bishops* sometimes being intent to grow great, they molested the *Monasteries* too much, wherefore the *Abbots* and *Monks* desirous of freeing themselves from that subjection, found a way by having Recourse to the *Bishop* of *Rome*, that he might take them into his immediate Protection, and exempt them from the Authority of the *Bishop*. This was easily consented unto by the *Popes*, making use of them, as well to have other persons in *Cities* immediately depending on them, as to amplify their Power over the *Bishops*, it being very important, that a Corporation so Notable as were the *Monks*, who in those times almost wholly attended on Learning, should depend totally on the *See* of *Rome*.

A^o. 750.

Exemption.

47.

A Beginning being made of these Exemptions, all the *Monasteries* in a very short time remained united to the *See* of *Rome*, and separate from their *Bishops*.

In *France* the *Bishops* made by the King, and much more those who were made by the *Masters* of the *Pallace*, (the *Kings* Authority being lessened) betook themselves all to Temporal things, which the *Abbots* did likewise, who furnished the King with Souldiers, and went to the Wars in Person, not as Religious men to perform the Offices of Christs Ministers, but Armed and fighting also with their own hands; for which cause they were not content with the fourth part of the Goods, but drew all to themselves: Whereupon the poor Priests who Administred the Word of God and the Sacraments to the People in Churches, remained without a livelyhood, wherefore the People out of their Devotion, Contributed unto them part of their own Estates, which being done in some places more liberally, and in others more sparingly, Querimonies or Complaints arose about it sometimes, because when 'twas often treated how much that should be, which was to be given to the Vicars or Curates, it went for a Common Opinion to be convenient after the Example of Gods Law in the old Testament, to give the Tenth, which being Commanded that people by God, it was an easie thing to represent it under the Gospel of Christ, as due also; though indeed nothing else be said of it by our Lord, and by St. Paul, but that necessary maintenance is due from the People to the Minister, and that the Minister or the Labourer is worthy of his hire, and he that serves at the Altar, ought to live by the Altar, without prescribing any determinate quantity, because that in some Cases the Tythe would be but little, and in other Cases the hundreth part would suffice; But because this is a clear thing, and that hereafter we have need of handling it more diffusely, I'll say no more now, but that in those dayes, and for an Age afterwards, the Sermons which were made in Churches (excepting the Matters of Faith) tended to nothing else but to Proofs and Exhortations to pay Tythes, a thing which the Curates were forc'd to do both

Tythes.

49.

for

for need, and for utility or profit, and in the Amplifying as it behoov-
ed like an Orator, they went often so far that they seemed to place *all*
Christian Perfection in paying of Tythes, of which not well Content,
and the *Prædials* not seeming sufficient for them, they began to hold
the *Personals* also for necessary, that is, what a man gains by his La-
bour and Industry, of Hunting, of all Arts and Handicrafts, and also
of the Military pay.

Of these Sermons many being found without the Authors Name,
some through *Error or on purpose* were attributed to St. *Augustin*, and
to other Antient writers; But besides that the Stile shews they were
made about the year 800. Histories are clear, that neither in *Africa*
nor in the *East*, they never paid *Tythes*, and that their Beginning, N. 50.
sprung up in *France*, as hath been said.

He pass unto *Italy*, where for several hundreds of years no man was
ever Ordained, to whom there was not appointed both his *proper and* No man or-
special Office and Charge, unless that some man famous in Doctrine or dained with-
in Holyness, who to attend on his Sacred Studies, refused to be apply- out a Title.
ed to any particular Cure; the Priest was Ordained without giving
him any proper Parish on which he might attend. St. *Hierolamo* was
Ordained Priest of *Antioch*, and St. *Paulinus* at *Barcelona*, and this
occasion excepted, Antiquity knew of no Distinction between *Ordinati-* olim no di-
on and Benefice, and *Ordaining was then* the same thing as to give an stinction be-
Office, and the Right of having ones Livelyhood from the Common tween Ordina-
Goods of the Church; But afterwards that in the Confusions which tion and Be-
Wars had caused in States, many worthy and good Clergy-men were nefice.
driven from their Ministry, they recover'd or had Recourse to some o-
ther Church, where they were received and maintained as their own
Clerks, at the Common Charges, and sometimes some Minister of that 51.
Church happening to fail by Death, or otherwise, his Office was ap-
pointed him to be Minister therein, and that Clerk was then said to be Cardinals.
Incardinated, whereas he who had first been exalted to an Office, Incardinate.
was said to be *Ordinated* or *Ordain'd* thereunto, but who being dis- cardinato.
possessed of his own, and provided with another was called *Incardi-*
nated. This manner began in *Italy* before the 600th year of *Christs*
Birth, when through the Incurfions of the *Lumbards*, many Bishops and
other Clergy-men were driven from their Charges, for which cause
when such like Offices were vacant in other Churches they were *Incar-*
dinated therein, and the Bishops were call'd, *Episcopi Cardinales*, and
the Priests, *Presbiteri Cardinales*.

Those who were driven out from their own places, having Recourse
to the Churches of *Rome* and *Ravenna*, which were the Chiefest and
Richest in Offices and Ministeries, those Churches (I say) as most Rich
and most abounding received most of those *Strangers*; and therefore
they had more Cardinals, which was also received in the abovesaid
Churches, because by that means they gain'd from all places the most
notable men, as is done in these dayes, and therefore they very *Seldom*
Ordinated any of their own, but very often *Incardinated Strangers*, where-
upon it remained, that in those two Churches all were called *Cardi-*
nals. In that of *Rome*, the name remains still; in that of *Ravenna* it
lasted until the year 1543, when *Paul the third* by one of his *Bulls*
abrogated the name of *Cardinal* in that Church; thus the name of
Cardinal which declared *Infirmity*, changed the signification, and became
the name of the greatest Dignity, and is come to be said they are
Cardinals,

N. 53.
Cardinals inferior to Bishops.

Cardinals no Habits to distinguish till 1244. Red Hat. Red Cap.

54.

No Ordination without a Benefice till afterwards.

Inconveniences from Ordination without a Title.

55.

56.

Cardinals, (that is) *Cardines orbis Terrarum*; and that which had neither degree nor order in the Church, but brought in *by chance*, is raised to the Greatness and Dignity wherein we see it now adays. But he that shall consider or look upon the Councils held in *Rome*, where *Italian Bishops*, and *Roman Cardinal Priests* did Intervene, shall see that the Cardinals did *always underwrite after the Bishops*; and that no Bishop was made a *Cardinal Priest* in succeeding times. The first Bishops made Cardinals were some chief ones driven from their Churches, as *Conrad* of *Mentz* driven out for a Rebel by *Frederik* the first Emperor, was embraced by *Alexander* the third, and made *Cardinal of Sabino*. Neither had the Cardinals of *Rome* any Habit or Token of Distinction until *Innocent* the fourth in the year 1244, who upon *Christmas Eve* gave them the *Red-hat*, to which *Paul* the second added also the *Red-cap*, the *Regulars Excepted*; But *Gregory* the 14th in our dayes granted it to them also. This little Narration hath been necessary, because that upon a Dignity, which at present is Supreme in the Church, and for which it seems sufficient Titles could not be found, the present Pope *Urban* the 8th, by a peculiar Bull, hath reduced them to *Eminency*.

From the Beginning until a little before the year 500, as hath been said, every Clerk was Ordained unto some Office, and lived upon the common Maintenance, after the Benefices were made, 'twas the same thing to Ordain it, and to appoint the Office of exercising, and the Benefice from whence to receive their Living, none being Ordained without a Benefice; but in Progress of time when there appeared any person fit to Act the Clergy-man, although there were no Room or Benefice vacant, not to lose that Subject or Person, the Bishops Ordained him without any Office or Title, and therefore without Benefice also, in Expectation that one might become vacant; and those men Ordained without Title did help or assist those who had Livings, from whom they received their Maintenance; But in progress of time this sort of Clerks Ordained without Title or Benefice grew to such an excessive number, and the Charity of the Beneficed in giving them Maintenance being much lessened, that a multitude of Indecencies and Scandals arose, that it behooved to provide for them by Laws, and constrain the Bishops who Ordained without Title, to furnish the Ordained with a *Livelihood*; and these Provisions which were Established in the Beginning, somewhat still'd the disorder, which nevertheless sprang up again ere long, and being often suppressed, always returned, whereunto two things have given a joyn't cause; one was the desire many men had of making themselves *Clergy-men*, to enjoy the *Exemptions* and to free themselves from the Subjection of *Princes*; the other, the Ambition of *Prelates* of having a sufficiency of Subjects whom they might Command, which Disorder is not yet well provided for, it causing many Indecencies in several Kingdoms, and making the People to lose their Respect for Religion.

The Episcopal order hath been no less exempt from this Inconvenience, but Bishops have been Ordained with a Title only, or with a name of Derision, hold nothing; yet they are not vulgarly so treated or styled, as other unbenefic'd Clerks; for though indeed they Ordained Priests, Deacons, and other inferior Ministers without Charge either in fact, or in name; yet 'twas never usual until now to Ordain a Bishop without a Diocess from whence he was denominated, wherefore if a City were assigned him possessed at present by Infidels from whence he

he takes his name, and no Christians being there, the Bishop ordained remains with a Name only without People, and lives by serving some great Bishop who cannot, or accounts it a thing inferiour to him to exercise by himself the Episcopal Functions.

There was a great number of such *Titular Bishops* before the Council of *Trent*, now 'tis much lessened.

But because the Jesuit Fathers at present propose a question, Whether the Pope can ordain Bishops without any Title, either true or feigned, as Priests and Deacons are ordained, and they decide that he may : God grant that this Power may not be put in practice, lest the Reverence to that Order should be lost, which heretofore was great towards all Ecclesiastical Orders when none was ordained, but he that was appointed to an Office, as hath been said, for which cause all of them resided or dwelt upon their Charge, which could not be left vacant, there being none to supply it, all being occupied in their own : in like manner the distinction of Benefices was unknown ; which sought for Residency, and sought it not ; and whether the Benefice were rich or poor, either of a heavy or of a light burthen, it behooved that the Possessor should serve it personally.

N. 57.

Residence and Non-residence.

But after they began to ordain without Title, the Titulars having who to put in their room, the charge was left to one with some small Provisions for attending, and they attended on somewhat else. So in *France*, the Bishops served the Court and the Parishes also, some poor Priest being substituted.

They began to provide against the Disorder, not with Laws and Constitutions, but by punishments of Censures, and of Privations ; so that in the times whereof we speak, that is immediately before the year 800. they were refrained by these chastisements, but so that the Division of Benefices, as also the Ordination of non-Titulars, and the Provisions for the Residency did not pass without some diversity between place and place ; even in the same Church it passed not without some variation, caused indeed by the different minds of the Bishops who succeeded one another ; as also through divers Provisions made from time to time by Princes, to prevent the disorders caused by the willing of too much in some Clergy-man, or by the impatience of some popular man, who could not see himself totally excluded from Ecclesiastical affairs.

58.

Tropo volere.

Much Alteration happened unto *Charlemain*, who having reduced under his obedience *Italy*, *France*, and *Germany*, reformed also the Ecclesiastical affairs, reducing them to an Uniformity, which in divers places had been differently instituted, renewing many of the old Canons and Councils, worn out of use, and making of Ecclesiastical Laws for the distribution of Benefices according to the Exigencies of those Times, he partly restored unto the Parishes the Possessions which the Bishops had drawn to themselves, ordaining that every Priest Curate should have one of quantity appointed him, which then was called *Manso*.

59.

Manso.

At that time the Custom of giving Tythes unto Parish Churches passed over into *Italy*, which long before had been introduced in *France*. Therefore *Charles* added anew, that the Bishop as Superintendant, and Pastor-general, might give that order upon the Distribution of Tithes, as he thought fit ; wherefore the Bishops, where the Tithes were many and fat ones, disposed of them different wayes, part they attributed

Tythes in Italy.

D

themselves

N. 60.

The People
choofe Bi-
shops.Monks choofe
Abbots.

61.

Pope elected
by the Clergy
and the Peo-
ple.

themselves, part unto the Priests of the Cathedral, and they appointed also some share unto the *Monasteries*, with a charge that they should place a Vicar in the Cure, giving him a convenient Portion; and besides the Bishops Appointment. Sometimes the *Non-parochial Churches* appropriated some share to themselves which in progress of times they defended afterwards by Prescription. The Princes also applyed some unto the Churches towards which they had the greatest Devotion. Charles restored to the People the Liberty of choosing *Bishops*, granting that the *Clerus* and the People ought to choose one of their own *Diocefs*, who should be presented to the Prince, and when he was approved by him, and invested by giving him the *Crozier* and the *Ring*, he was to be Consecrated by the neighbouring Bishops. He restored also to the *Monks* the Power of choosing the *Abbot* of their own *Monastery*: He established also that the Bishops ought to ordain those Priests who were presented by the People of the *Parishes*. Charles established also the Pope of *Rome*, in like manner as he had been instituted when the *Emperours* of the East had the Dominion over *Rome*, viz. That the Pope should be elected by the Clergy and by the People, and the Decree of the Election should be sent to the *Emperour*, upon whose Approbation the Elected was consecrated.

True it is, that Charles being dead, when the *Emperours* of his Posterity were weak in Power or in the Brains, the Popes elected by the People caused themselves to be Consecrated without expecting a Decree from the *Emperour*. So did *Paschal* with *Lewis* the Son of Charles, though indeed he sent afterwards to have it excused, that it proceeded not from his will, but from the Force of the People who would have it so. There have been some called *Lewis* who have renounced the Faculty of confirming the Pope, and therefore they alleage the *C. Ego Ludovicus*, which other men of much Doctrin by many Reasons shew to be false and feigned, wherein 'tis needless to toyl ones self, because that certain it is that *Lotharius* the Son of *Lewis*, and *Lewis* the Second his Nephew did confirm all the Popes elected in their Ages.

62.

In these Times, and in those foregoing, and succeeding, when waiting for the Confirmation of the Prince who was sometimes absent, that some Months past before the Elected were confirmed and consecrated afterwards; He, before the Consecration, behaved himself not as Pope, neither did he administer, except that some particular thing whereto urgent necessity constrained to provide for at the present: neither was there any other who attended therein, as happened to *St. Gregory*; neither was he called *Episcopus*, but *Electus*.

63.

Much less did he hold the chief place, but the *Arch-Priest* held it, who gave himself this Title also; *Servans Locum sancti sedi Apostolicae*: But after the Princes were excluded, as shall be spoken of in its place, the time was never long between the Election and the Consecration; and it was not said that the Election alone gave the *Popedom*, but the Consecration; wherefore if any one elected, died before he was consecrated, he was not put into the Catalogue or number of the Popes, as happened to one *Stephen*, chosen after the death of *Zacharia*, Anno 752. he was not consecrated, and therefore not put into the Catalogue. Pope *Nicholas* the Second for what appears was the first who declared Anno 1059. that if the Pope Elect could not be enthroned by reason of Wars, or through the Malignity of men, nevertheless he should have Authority as a true Pope, to govern the Church of *Rome*, and to dispose of

of its Goods, nevertheless some Reliques remain still; for if the Pope makes a *Bull* before his Consecration, he saith not, *Pontificatus nostri Anno primo*; but saith, *a die suscepti a nobis Apostolatus Officii*, and men have not been wanting upon occasion to say, that the Pope ought not to be called *Bishop* before, but *Elect*, neither can he use a *Bull*; and such oppositions were made against Pope Clement the 5th, whereupon he, Anno 1306 made a *Bull*, where he forbad under pain of Excommunication, that no man should expose these Difficulties abroad; so that ^{A campo.} 'tis held at present for an Article, against what Antiquity believed, that by the sole *Election* of the *Cardinals*, the Pope receives all the Authority, N. 64. and therefore the Writers of these times have laboured hard to put into their Number and Catalogue that *Stephen* of whom we have spoken: wherefore they have altered the Number of the other *Stephens* following, calling the second third, and the third fourth, and so to the ninth, which they number to be tenth, with much confusion amongst ancient and modern writers, sprung up only for the interest of maintaining this Article.

In the beginning the Government of the Holy Church had altogether a *Democratical Form*, all the Faithful intervening in the chiefest Deliberations; thus we see that all did intervene at the *Election* of *Matthias* unto the *Apostleship*, and in the *Election* of the *Six Deacons*, and when *St. Peter* received *Cornelius* a *Heathen Centurion* unto the Faith, he gave an Account of it to all the Church. ^{Government of the Church first Democratical.}

Likewise in the Council celebrated in *Hierusalem*, the *Apostles*, the *Priests*, and the other faithful Brethren did intervene, and the Letters were written in the Name of all these three Orders. In success of time when the Church encreased in number, the faithful retiring themselves to the Affairs of their Families, and having left those of the Congregation, the Government remained only in the Ministers, and became *Aristocratical*, saving the *Election* which became *Popular*; whereupon all Affairs were resolved with Councils: The *Bishops* of the same Province with the *Metropolitan* assembled at least twice in the year, making a *Provincial Synod*, the *Clerks* with the *Bishop* made a *Diocesan Synod*, and they held an Assembly almost daily, which was called the *Consistory* in imitation of the Assembly of the Emperors Counsellors, to which that name was given. ^{Then Aristocratical. Provincial Synod. Diocesan Synod. Consistory.}

In the *Ecclesiastical Consistory* the Chief of the *City Churches* did intervene with the *Bishop*, a thing grown out of use in all places, only in *Rome* the Image remains. There they proposed, discussed, and resolved all Ecclesiastical Affairs; but after that *Benefices* were erected, the Priest having his Living separate, took little care of the Common Affairs, and ceased from intervening in the Consistory; whereupon that grew out of custome, and instead thereof the *Bishops* made an *Assembly of all the Clerks of their Cathedral Church*, to make use of them as well for Council, as for Ministers in the Government, who receiving the Share of their Living from the common *Mafs or Stock*, every year, every month, every day, from whence they were called *Canons*, from the word *Canon*, which in the Western Empire signified the measure of wheat which sufficed for a Private mans food, or for a Families, or for a Cities; and this Institution of *Canons* did a little precede the times of *Charlemain*, by whom they were also better settled. ^{66. Canons.}

Here it is also requisite to be noted, that in those times by reason of the *Wealthiness of the Benefices*, they created for Bishops the chief

men of the Court, and of the City, to whom the *Prince* likewise committed a great share of the Political Government; first extraordinarily, and then seeing it succeeded well, ordinarily, though not in all Cities after the same manner, but according to the Occurrences of the place, and to the worth or goodness of the *Bishop*, and also according to the little aptness of the Lord or Earl, who was sometime supplied by referring unto the *Bishop*, which was the cause that when the Posterity of *Charles* was afterwards degenerated and plunged into the depth of Ignorance, the *Bishops* thought it better for them *not to acknowledge any more that Authority* of the *Prince* from whence it came, but to attribute it to themselves only, and to exercise it as a Peculiar of the *Bishops*, and to call it *Ecclesiastical Jurisdiction*: And such was the Beginning of that which we now see contended for with Princes, and which puts a little confusion sometimes in the good Civil Government.

67. The Affairs established by *Charlemain* had no long duration, through the little worth of the Princes of his Posterity who held the Empire; whereupon beyond the *Alps* things easily returned to their first Abuses; the *People* in few places, and very seldom had *any share* in the choosing of the *Bishops*, and not much in the choice of the other Ecclesiastical Ministers; but the *Bishops* ordained and gave Benefices to whom they pleased, except when some man was proposed by the *Prince*, in which case they failed not to obey. The *Pope* of *Rome* was always elected by the *People*, and confirmed by the *Emperour* afore he was consecrated, and the other *Italian Bishops* were not consecrated unless the *Emperour* had first approved of them. In *France* and in *Germany* much more. If the *Pope* was willing to favour any one in the Neighbouring *Bishopricks* of *Rome*, he had recourse to the *Emperour*, beseeching him he would vouchsafe to give him the *Bishoprick*, and if any instance were made to him, that he would grant the Consecrating of any one who had not the *Emperours Letters* he refused to do it, bringing to mind they should be first obtained.

68. But the Posterity of *Charles* being driven out of *Italy* in the year 884. *Adrian* the 3d. made a Decree that the *Pope* should be consecrated without the *Emperour*.

It was not besides the Argument, that having designed to treat of Benefices, we have discoursed of the *Popedome*, and are yet to discourse of it for the future, That being one amongst the Benefices, and especially named for a Benefice by *Clement* the 3d. in a time when the *Popedome* of *Rome* was not only ascended to its height of Greatness, but had also some peculiar Dignities to distinguish it from others.

69. And 'tis a most noted thing, that antiently the name of *Sanctus & Sanctissimus*, *Beatus & Beatissimus* was common to all the Faithful in *Christ*, when all men still aspired to perfect Sanctity; afterwards that Secular men had attained to much more conveniencies in worldly Affairs, these names remained amongst the Clerical Order, and after the declining of the inferiour Clergy, they remained amongst the *Bishops* only. Finally the *Bishops* being given to worldly Affairs, they remained to him of *Rome* only, who hath retained them since, not as Titles of Goodness, as they were, but as Titles of Greatness. The Names of *Pontifex*, *Pope*, or *Chief Priest*, were, and are common to all *Bishops*; yea, there are yet some *Canons* extant wherein all *Bishops* are called *Chief Priests*. The name of *Papa* or *Pope* which seems the most proper, was given to each

each Bishop. *St. Ciprian Bishop of Carthage was called Pope; St. Hierome gives that Title unto St. Augustin*, but in times much more recent *Sidonius Apollinare* called many Bishops Popes, and is called Pope by them. Many Canons are in the *Decree of Gratianus*, in the Inscription whereof *Martin Bishop of Bracara in Portugall*, is called Pope. *Gregory the seventh* in the year 1076, was the first who Decreed that the name of Pope should be peculiar to him, and not attributed unto others, and it proceeded so far in Opinion, not to say in Faction, that *Anselmus Lucensis*, one of his followers, said that the Plural of the name God was no less improper and impious, than that of Pope.

The name of Pope First made peculiar to the Bishop of Rome by Gregory 7th.

But returning to the times which followed the Line of *Charlemain*; In France was a Fashion invented, which though it appeared in favour of Secular men, the Churches thereby encreased unto immense Riches, and this was a Contract called *Precarius*, by which *Precarius* to whomsoever that gave his own to the Church, the Church granted him to possess the same in his Life-time and twice as much besides, and if he would divest himself of the Ufu-fruit also, they gave him to enjoy three times as much of other Goods of the Church, afterwards this went over into Italy also. The Contract for that time proved profitable to him who tripled his Incomes, and accommodated those who were without Posterity, or who took care for the present, without caring for Posterity, but indeed the Profit was the Churches, who after his Death got the Estate entirely.

N. 71.

Precarius

Great Confusions in Italy followed upon these times, as well in the Civil Government, as in the Ecclesiastical, and specially in the Papedom, unto the year 963, wherein for 80 years, none sought after a true Form and Face of the Churches Condition, but only for a general Preparative for a change, and a Chaos of Impiety. Popes were Excommunicated by their Successors, and the Acts made by them were Annulled, and cut in pieces, and the Sacraments Administred; Six Popes were driven out by them who would put themselves in their Room, and two also kill'd, and Pope Stephen the 8th, was so illfavouredly deformed in his Face, that he never shew'd himself in Publick.

72.

John the 10th, was made Pope by *Theodora* a notable Roman Harlot, through the Faction which her Publick Lover had in Rome.

John the 11th, who was a Bastard-Son of another Pope dead 18 years before, was made Pope at the Age of twenty, and so many inconveniences did arise in those years, that the Writers say that those times afforded no Popes, but Monsters.

Cardinal Baronius not knowing how to excuse any of these Disorders, said that the Church then was for the most part without a Pope, but not without a Head, its Spiritual Head Christ being in Heaven, and forsakes it not; and it is very certain that Christ hath not left, nor never will leave his Church, neither can his Divine Promise fail, that he would be with it unto the end of the World, and in this every Christian ought to feel and to Believe what *Baronius* saith, thinking also that what then happened, came to pass formerly, and as in those times the sole Assistance of Christ preserved his Church, so it will preserve it in all such like Accidents, in the like manner, although there were no Papal Ministry. Each one of himself may judge how the other Churches of Italy were used, considering what is the Condition of all the Members, when the Head is grievously indisposed. Therefore they were no better out of Italy, where great men gave Bishopricks unto their

73.

Bishopricks given to Souldiers and Boyes. F. 58.

Souldiers,

- N. 74. *Souldiers, and even unto Boyes in their Childhood.* Earl Herbert, Uncle of *Hugh Capet*, made his Son of *five years old Arch-Bishop of Reims*, and *Pope John the 10th*, Confirmed that Election. In those times no man had Recourse to *Rome* out of Devotion, but alwayes he that designed something against the Canons, and customs of the Church, if he found not Approbation of it in his own Country, he fled to *Rome*, where *Dispensations were given for every thing*, and the Ambition or Covetousness was covered with an *Apostolical Dispensation*. The Popes being such as is abovesaid, made no distinction of what they were able to do, esteeming every thing an Encrease of their greatness, which could be upheld by any Powerful man, who for his Interest defended what was desired.

The People partly through their simplicity, and partly through Terror of Potent men, approved of that which they could not hinder; whereupon an Opinion was grounded, that what thing soever if it had its Confirmation from *Rome*, every past error was covered.

75. Some might believe, that the little care which the Ecclesiastical Order had of Spiritual things, would have cooled the Fervency of Secular men, in giving to the Churches, and that the new Purchases or Acquisitions of the Clergy men would have been at an end; nevertheless it was not so. For by how much the Spiritual Cure was diminished in the Prelates, by so much they were intent in the preserving of their Temporal Goods, and they had Converted the Spiritual Arms of Excommunicating, *which was used only for the Correction of Sinners*, into the *Defence of their Temporal Possessions*, and for the Recovery of them also, if by chance the little Care of the Predecessor had let any thing be lost, and the *Terror of the Censure* was so great amongst the People, that nothing put them into a greater Fright, and 'twas a wonderful thing that Captains and Souldiers, most wicked in other things and without any fear of God, usurping their Neighbours Right without any regard of offending his Divine Majesty, preserved with great Respect the things of the Church for fear of the Censures.

Excommu-
nication.

76. From hence, many of slender Power, being moved with desire of securing their own from Violences, made Donation thereof to the Church, *upon condition* that it should give it in Fee, with a slight acknowledgment. This secured the Estates which belonged not to Potent men, as those whose Dominion belonged directly to the Church; afterwards the Heirs male of the Feoditaries Failing, which often happened by frequent wars and Popular Seditions, that the Estates fell to the Church.

Bequests on
condition.

Seeing that hitherto we have declared in what manner Ecclesiastical Estates have been acquired, and the *Reason of Tything* those of the Laity, this place perswades that the question debated in our times should be treated and resolved before we pass any further; that is to say, *whether Ecclesiastical Estates be Possessed by Divine or Humane Right*, and who should have the Dominion of them?

Question con-
cerning Eccle-
siastical Es-
tates.

77. The Common opinion distinguisheth the Possessions left to the Churches *by Will*, or by *Donation* of the Faithful, or acquired in some other manner, by *Tythe*, by *First Fruits*, or by other Oblations: And as to the Possessions all agree they ought to be called *Temporal Goods*, and that the Church enjoys them by *Humane Right*: Wherefore 'tis certain as hath been declared above, that the Purchasing of Estates being prohibited to all Colledges whatsoever, the Church at first by Per-
mission,

million, and afterwards by grant from the Emperors, had the Power of Purchasing, and there is the Canon annexed: *Quo Jure d. 8.* wherein is affirmed that by the only Fundamental of humane Laws, it is said this Possession is mine, this Servant is mine, and that taking away the Laws of the Prince, neither Church, nor any one else can say, that any thing is their own. And no man can doubt, but that the division of Possessions was by the *Civil Law*, and likewise the manner of *Transferring Dominions* from one to another, as the giving, the bequeathing by Will, and all Contractings and Disposings are *humane Laws*.

Commonwealths and Kingdoms have been where the Testament hath been unknown, *Jure Romano*, 'tis granted to the *Citizens of Rome* only to make a Will; It is not possible, that the manner of *Purchasing* should be by *humane Right*, and the Continuation of Purchasing should be by *Divine*: When any thing is given or bequeathed to the Church, there being a difficulty in it, whether the Title be valid or no, it is judged by humane Laws, and holding the Lawful Right, Possession is given according to them; Therefore still in Virtue of them, and not otherwise, one is continued in the Dominion and in the Possession: But because every one agrees in this, I'll go no further, only I shall add as for a Corollary, which is clearly resolved from hence and without Difficulty, whether the Exemptions which Ecclesiastical Possessions have, are by *Jure Divino*, or *humano*; Seeing that Possessing and the manner of Possessing proceed alwayes from the same Law; and the Jurisconsults say, that from thence proceeds the *Bondage*, or the *Freedom of Estates* in Land, from whence also Dominion is derived. It would be a great Contradiction to say, that the Church should have a Possession (*Jure Veneto*) by the Right or Law of *Venice*, which should have a Liberty (*alio Jure*) by another Law. N. 78.

But as touching *Tythes*, there are two opinions, one of the *Canonists*, the other of the *Divines*, and of the *Canonists* who together study *Divine Scripture*. Exemptions.

The *Canonists* say that *Tythes* are *Jure Divino*, because in the old Testament God gave *Tythe* unto the *Levites*, as the Holy Scripture Relates, and 'tis no wonder that they say so, because they are not versed in the Readings of the Sacred Books, their Profession not being to understand the Mysteries of Christian Religion, which is that God gave by *Moses* to the *Jewish People* the Law, which as to *Ceremonial and Judicial things*, was proper to that Nation until the coming of *Christ*, who was to take away the obligatory Power of it, so that the Law of *Tythes* is indeed *Mosaically Divine*, but not a *Law Naturally Divine*, nor *Christian*, and it obliged only that People at that time, now it obligeth none. He that Governs a Common Wealth, may make Laws like unto those, but they shall not oblige as *Divine*, neither ought they to be called such, but *Civil Laws* of the Prince who Constitutes them; there was a *Mosaical Divine Law*, that a *Blasphemer* should be put to Death, this obligeth us not now, neither doth he sin who kills him not, and the Prince may impose a Capital punishment for Blasphemy, and it would be just, and ought to be observed, but it should not therefore be called a *Divine Law*, although God gave it formerly to the *Hebrew People*, but a *Politick Law* of the Prince. In these and in many other occurrences where these men alledge the old Scripture for their Interest, subjoyning thereunto that it is *de Jure Divino*, it behooveth to distinguish their Equivocation, that *That which is de Jure Divino Natural or Christian*, 79.

ſtian, obligeth us, but that which is *de Jure Divino Moſaical* obligeth us not, and he that hath a Government making a Statute like unto that, it is *de Jure Humano*.

N. 81. I cannot forbear ſaying, that they deal not in this manner out of ignorance, but to deceive the incautelous, and to ſtrengthen their own Affairs, by and with the Name of *Jus Divinum*, and to give it Reputation, but they may be convinced here, and have their mouths ſtopt. In this ſame Conteſt of the Scripture where God commands Tythe ſhould be given to the Levites, he Commands alſo that they ſhould not Poſſeſs any Land, and that they ſhould be contented with the Tythes. If by this Precept the People be (*de Jure Divino*) obliged to give them the Tythes, they ſhall be obliged to have no Poſſeſſions.

But beſides; God Commanded the Tythes only of the Fruits of the Earth, and the Canon Laws ſay, they muſt be paid alſo out of Merchandize, out of the Militia, out of Hunting, and out of whatſoever Handy-work whereby gain is made. If God gave the Hebrew People Command for Predial Tythes only, they are forced to ſay the Perſonal is not commanded but by humane Law. The Divines (for I name never a one in Particular, becauſe none is excluded) and many Canoniſts with them ſay unaniouſly, it is a Precept of Divine natural Law, that the Miniſter of Religion ſhould live by his Office, which he affords by ſerving the People in Divine things, and that it is a ſpecial Precept of Chriſt our Lord in the Goſpel, that the Miniſter who ſerves the People in Preaching the Word of God, and in Eccleſiaſtical Miniſtry, ſhould be furniſhed with a Livelyhood, in what quantity is not determined, becauſe that according to the number of Perſons, and according to the Condition of Places and of Times, abounding at one time, and wanting at another, ſo that allowing a ſhare to the Miniſter of Chriſt, is *de Jure Divino*. But that this ſhare ſhould be a Tenth, or a Twentyeth, or a greater or a leſſer Proportion, this is eſtabliſhed by humane Law or by Cuſtom, which are of equal value. And when 'tis Read in any Decretals, that God hath inſtituted Tythe, or that the Tythe is *de Jure Divino*, they mean a part determined, for one undetermined, meaning Tythe to be that ſhare, which is requiſite and neceſſary, or elſe that God hath inſtituted Tythe in the old Teſtament, after the manner that the Law hath inſtituted the ſame in the new Teſtament. Wherefore we may generally ſay, that Eccleſiaſtical Eſtates of whatſoever kind they be, are all under the Dominion of him who is Patron thereof, and are poſſeſſed by humane Laws. Neither doth any man make a doubt concerning this undetermined ſhare, which is requiſite or due by a Divine, Natural, and Evangelical Law, becauſe as Lawyers obſerve well, there is a difference in a thing being due or requiſite, and in having a Dominion; the thing whereof one hath a Dominion, may be claimed directly in Judicature or Judgment (as they ſay) *Actione Rei Vindicationis*, neither is he to be ſatiſfied by giving him an equal value; but the Creditor only may by perſonal Action require his Debt, the Debtor being obliged to give him ſo much, but this man no more than that.

By this Reſolution it remains alſo eaſily decided, whether Benefices or Livings are *de Jure Divino*, or *de Jure Poſitivo*? becauſe Eſtates in Land and Tythes being Poſſeſſed *de Jure Humano*, the Benefices alſo being grounded upon them, will have the Power of the ſame Law, beſides one may certifie ones ſelf hereof more eaſily from the things above ſaid: For if the Church hath been ſo many years with Eſtates en-joy'd

joy'd in Common, and not divided into Benefices as is above-mentioned, it is an *evident thing that Benefices* have been Created by men *in progress of time*, and in this all agree. I will not enlarge my self further, only shall say, that if these Considerations seem somewhat subtil, yet they are necessary, as the following matters shall declare.

From the Resolution of the first Question, it would be clear what to Answer unto the second, by him that hath the Dominion of Church Goods (I mean of Estates in Land, because of Fruits shall be spoken of in its place, which is the fourth Question) for if they be Possessed by Humane Laws, there remains but to see unto whom these Laws hath granted them. Some say, that these Goods are from God, and without doubt they say true, because Divine Scripture sayes plainly, all the Earth is the Lords and the fulness thereof. But in this manner all things are from God, and no more these Goods, than any others; the Divine is a kind of *Universal Dominion*, another Dominion hath every Prince who is Supream in his State, which according to *Seneca* may be called, *Dominion of Empire*, or else according to the Doctrine of the Jurisconsults *Dominion of Protection, and of Jurisdiction*: Another, each private man hath, which is the *Dominion of Propriety*, whereof we speak, and wherein we now make enquiry; one cannot say that God hath the universal Dominion of all things, but that he hath therewith the Propriety of those Goods, as the King hath the universal in all the Kingdom, and nevertheless he possesseth in Private, and hath the Propriety of that Portion which belongs to his own House. Wherefore one may make an Addition to the universal Dominion of the Prince, with the Particular of Propriety, whereby it increaseth, and is Augmented; but Gods Dominion hath an universality so excellent and so infinite, that it can receive no Addition, and repugneth to be particularized, as it also repugneth to be Communicated to any Creature whatsoever, therefore no man can say, God being Master of these Goods, I who have the same Tribunal, the same Consistory, and the same Court as he, I am Master also, but rather he is no less a Servant of whomsoever is least.

N. 85.

86.

Notwithstanding others vending or uttering freely without fear, say, that the Pope is Master and hath the Dominion, and this they prove by the Decretal of *Clement the 4th*, that the Plenary Disposition of all Benefices belongs to them.

Pope Dispensator not Dominus.

St. Thomas opposeth himself to this opinion, in saying, that the Pope indeed may call himself chief Dispensator, but in no wise may he be called, either Master, or Possessor, which Doctrine *Cardinal Gaetanus* explaineth, adding that the Pope cannot give, nor in any wise dispose of Ecclesiastical Goods, but only do with them as much as may be done, being upon the Term of Dispensator.

87.

And *Gaetanus's* Reason is very clear and Efficacious, these Goods were at first belonging to a Master, who hath transferred his Dominion by Donation or by Testament, but none of these had ever Intention to give or leave to the Pope; therefore the Dominion hath not passed unto him; wherefore the same *Gaetanus* and *Adrian 6th Pope* say, that the Dominion of Estates is in the Church, *that is in Generality or Universality of the Faithful* of the place, to which the Goods or Estates is left, so that the Dominion of the Goods of the Roman Church, is in the Universality of the Romans. 'Tis known by all, that Universality in Right is like a Person capable of Possessing, in which manner it is

said, such a thing is common to the City, that is, no mans in particular but all mens together.

N. 88.

Rocco.

They leave many Wills after this manner, as I leave to the School of *St. Rocco*, to the Monastery of the Fryers, &c. This Doctrine is very well Confirmed by the Antient Custom of the Church, and by the manner of speaking of the Canons : There is no doubt, that if they were to denominate Estates in Land by the name of a Person, they would denominate it from him who hath the Dominion; but all the Canons and the Antient Custom calls them *Church Lands or Goods*, therefore she hath the Dominion of them, neither have those any other opinion who say these Goods are Christs, because all the Christian Churches from most Antient times have been denominated, not only from the name of the City, but also from the name of him who hath been the first and the most famous Bishop therein, as the *Roman* is called *St. Peters*, that of *Alexandria* *St. Marks*, that of *Ravenna* *St. Apollinare's*; whereupon the Lands of those Churches took the name of the same Saints, and the Lands of the *Roman* Church are called *St. Peters*; wherefore these kind of Phrases are Read amongst all the Antient Writers, viz. *St. Peters Patrimony*, *St. Peters Lands*, the Possessions of *St. Peter*; the Patrimony of *St. Apollinare*, the Revenue of *St. Apollinare*, &c. And because Christ is universal Head and Protector of all Churches, that which belongs to the universal Church, and to any particular Church, is called *Christs Patrimony*, *Christs Goods or Lands*, &c. which signifies so much as belonging to the *Church*, whose Head Christ is: Not otherwise, that the Lands of the Republick of *Venice* are called *St. Marks*, that is, belonging to that Republick which bears *St Marks* name. And truly that universality of the Church, was Mistress of all that was gained when the Clergy-men in each Diocess were in Common, because all Donations, and all Testaments were made thereunto. Certain it is, that these Estates were not, neither could they be Purchased, but by him to whom the Law granted the Power of Purchasing, but the Laws of *Constantine*, granted that Donations might be made to the Christian Colledges, that is, to the universality of the Christians which were in Cities, then the Dominion belonged to those Colledges; but after the divisions were made, and the Benefices Instituted, Legacies or Donations were made unto particular Churches, or rather for the most part, for some particular Pious work in those Churches, wherefore it cannot be said, who is the Master of any thing whatsoever, without seeing the Bequeathing of the Wills and of the Donors, whereto we being to speak fundamentally, we can say no more, but that *Prelates, and other Clergy-men*, are the *Governors, Administrators*, and *Dispensators* of the *Church Goods*, to do therewith according to the Bequest of the Donor or the Leaver, and not otherwise, and that Person is Master either Particular or General in favour of whom the Donation or the Legacy was made. Wherefore also every Rector of a Church ought to see diligently after the obligations left him to perform, and if it be done otherwise, it must be imputed to humane Imperfection, no man can be persuaded that through length of time, he may have a Prescription, because that Presuppofeth a good Faith which never was in any man, every one knowing in his Conscience, that those goods were not left to be done with, as they do.

91.

But in whose Dominion shall those Church-Lands be, whose Institution is not known? The Natural and the Civil Law is, that in those whose

whose private Patron or Master hath totally failed, the *Community* shall Succeed, therefore the Church must remain Mistress thereof. So that in few words men who are beneficed, are *Dispensators* of the Goods of the Benefices, But *Master* he is not in favour of him who made the Donation or the Will, and if it be not known, the *Church* remains *Mistress*.

'Tis no obstacle hereunto, that there be Princes Laws and Ecclesiastical, which forbid Alienation, for the Pupill is true Master of his own, and yet he cannot Alienate; *Dominion* is a Right of doing what one will with a thing, when the Law permits, which binds some sort of Persons with Conditions, who have need of the Government of others, such is *University* or *Community*.

N.92.

No man ought to wonder, if so many modern Writers in such like Questions as in this, which makes the *Pope absolute Master* of all the Benefices, and of all Ecclesiastical Estates, do defend Opinions contrary to Antiquity, and contrary to those Institutions which had their Rise from the *Apostles themselves*, and from *Apostolical men*, because that as *St. Cyprian* very sensibly Complained, that it is one of the Imperfections of man, that whereas Customs should be Conformable to good Doctrine and to Laws, on the contrary, the Doctrine of Interested men accommodates it self to the Customes, and it is observable, that in all the course of so many Ages, there hath been no *Novelty* introduced, even concerning *Religion*, but immediately it hath met with *Defenders*.

What a wonder will it be, that this should happen in those Noveltyes and Introductions, which serve for Wealth, Ease, and humane Concerns whereunto many may aspire?

93.

The Confusion which was in *Italy* in Politick Affairs, by reason of so many Kings and Emperors which were made in those times, caused also an extream disorder in other Cities about Ecclesiastical Affairs; Bishops and Abbots being sometimes made by *Princes*, and sometimes intruded by their own Power, and other Ecclesiastical Ministers likewise were sometimes made, by those who bore sway in the Cities, and sometimes by the Bishops; and now and then Benefices were Possessed by him who had Power or popular Favour.

In the year 963, *Otho a Saxon* brought his Arms into *Italy*, and became Master of it, and to give Form unto the Government, he Assembled a little Council of Bishops, deprived *Pope John 12th*, who being made Pope in his Minority under the Age of 18, by the chief of the *Roman Nobility*, and by a great Concourse in that City, and lived in the Popedome, Committing *Adulteries*, *Perjuries*, and other irreligious Customes, *Otho* made him to be renounced by the People, and by *Pope Leo the 8th*, Created by him instead of *John*: The Authority of creating the Pope, and the other Bishops in *Italy*, he retained, and his Son and his Nephew of the same name, unto the year 1001, for the space of 36 years, and during the number of *twelve Popes* which were in that time. Two of them were Created quietly by the Prince, the others in Seditions, for which cause the first *Otho* carryed one Prisoner into *Germany*, and *Otho the third* carryed another; one was strangled by him, who had a mind to be made in his Room; one run away having Robb'd the Treasury of the Church Ornaments, and another withdrew himself into a voluntary Exile, so that in these years we meet with Popes, yet as *Baronius* saith, they are in the Catalogue only to fill up

94.

Scontriamos

- the Number, for as to the Rest, the Church *had no other head but Christ.*
95. The other Bishops and the Abbots were Created by the Emperors without any Contradiction, and the manner was that when a Bishop dyed, his Crozier-Staff and his Ring were carryed to the Emperor, who having determined on whom to bestow the Benefice, he invested him by giving him the Ring and the Staff, upon Receiving of which Tokens he went into Possession, and got himself Consecrated by his Metropolitan, or by the Neighbouring Bishops, which Custom was observed also in France and in Germany: Other smaller Benefices were Conferr'd by the Bishops or by the Abbots under whom they were, unless the Prince Nominated any one to a Vacant Benefice: For to such a one it was given without any Reply, or if he were Recommended by the Prince to have a Benefice when it should be Vacant, who by reason of that Expectation granted by the Prince, came to be provided by the Bishop with the first Vacancy: Thus did the Othos Govern without Contradiction from the Popes, although the second of them dwelt a very long time in Rome, where he dyed also, and was buried.
96. After the Death of the Othos, there was preserved among the Succeeding Emperors, the same Power of Bestowing of Bishopricks and Abbeyes, and also of Nominating unto inferior Benefices, or else of giving Expectancies of Benefices which were to become Vacant. Indeed the Imperial Authority diminishing in Rome, the Confusions returned into that Church, for the People having reassumed the Authority of Electing the Pope, and chose three of them quietly; Benedictus, Octavus, and John the 20th, Brethren were Elected one after another with some shew of Faction, and this last being dead, Benedictus 4th their Nephew was Chosen at 12 years of Age, who besides many other Excesses, sold a part of the Popedom to one Sylvester the 3d, and another part to Gregory 6th, and all three sate in Rome at the same time with much Confusion, chiefly that this Gregory having Armed himself with Souldiers, Foot and Horse, and with great slaughter gotten the Possession of St. Peter's Church, he enlarged his Part by Arms; wherefore the Emperor Henry the Black, went into Italy, put Benedictus to Flight, sent Sylvester away, Banished Gregory into Germany, and deprived the People of Rome of the Power of making any more Popes. And he made three Popes successively, all Germans by Nation, who being chosen by the Emperor, took upon them the Pontifical Habit and Ensigns without any thing else; the third who was Brunus Bishop of Zul, having by the Emperors Deputation taken upon him the Habit in Trisinga, and therewith taken his Journey as far as Clugni, Hildebrand a Monk Foster-Son of St. Peters Church in Rome, a man of singular subtilty, would by Art restore the Election to the Romans, Counsell'd Brunus, who Cloathed in his Pontifical Habit, was call'd Leo 9th, to Cloath himself like a Pilgrim, and so to go to Rome, and that he would be more acceptable to the Roman People; Leo Consented, and entred Rome in a Pilgrims Habit, and by the Suggestion of Hildebrand was Proclaimed Pope of Rome by the People; But this Art did not prevent the Emperor, when Leo was dead, from chusing in Mentz Geberard of Aichstat, who immediately put on the Habit, and was called Vector the second; the Emperor then did not only bestow Benefices, but also made Constitutions against those who obtained them by Symonie, Pardoning the Errors Committed until that time, and Imposing Penalties for the Future.
- 97.
- 98.

Henry the Black dying, left the Empire to his Son, Henry the 4th, who Succeeded him in a tender Age, during whose Minority, although the Popes were Created by the Consent of the Emperors Tutors, and the Bishops and the Abbots were Invested by him with the Ring and the Crozier Staff, the Popes nevertheless making use of the Occasion, gained by little and a little some greater Liberty, adhering also to one side or party of the Tutors, who differ'd about them, and made Faction, whereupon *Nicolas 2d.* made a Constitution about the Election of the Pope, Ordaining it should first pass through the *Cardinal Bishops*, then should be proposed to the *Cardinal Clergy-men*, in the third place to the *Clergy* and to the *People*, and in the fourth place the Emperors Consent should be sought for, in which manner *Alexander 2d.* his Successor being Elected, the Emperor would not Confirm him, nor accept of the Excuse which the *Cardinals* sent by one of them to make by Embassy, saying it was done to avoid a sharp Civil Dissention, but all with great Respect to the Emperor the Elected being his Friend; yet the Emperor chose the *Bishop of Parma* for Pope upon the Instance of *Gerard of Parma* his Chancellor. But three years after, the Affairs of the Imperial Court being altered, and *Gerard* the Chancellor Deposed, the *Bishop of Parma* was also Deposed from the *Popedome*, and *Alexander* accepted, who in the year 1072, there being made in *Germany* a Conspiracy of the *Bavarians* and *Saxonians* against the Emperor, he joyned with them and entred into the League, and the year following cited the Emperor unto *Rome*, as imputed of Simony for having conferr'd Bishopricks for Money. The Pontifical Action was much admired, never any Pope having come so far, but it soon passed under silence by the death of the Pope, after whom *Gregory 7th*, a Monk of *Sienna* attained the *Popedome*, who was *Hildebrand* above Nominated by the Emperor, but in the year 1076, having been three years in the *Popedome*, finding the Emperor yet young, and *Germany* full of Commotions, he deliberated to exclude him totally from the Election of *Bishops* and *Abbots*, and made him a Monitory, that for the Future he ought not to intrude therein; the Emperor made a great Resistance, whereupon the Pope Excommunicated him, absolved his Subjects from the Oath of Fidelity, and suspended him from the Administration of the Kingdom of *Italy*, and of *Germany*: He Excommunicated also the Bishops his Ministers, Collegu'd himself with his Rebels, provoked the Emperors own Mother against her Son, and during the time which lasted until the year 1085, when the Pope dyed in Banishment at *Salerno*, he Excommunicated the Emperor four times, and made a general Decree, that if any Clergy-man should receive a Bishoprick or an Abbey from a Laymans hand, he should be accounted no Clergy-man by any one, and should be deprived from entring into the Church, and the like for him who shall receive other Benefices, unto which Penalty he Subjected also the Emperor, the King, the Duke, the Marquess, and the Earl; and every Power or Person Secular that should dare to invest with Benefices.

N. 99.

100.

101.

The Emperor maintained his Cause by his Arms, against the Pope and his Colleagues, and was followed by most part of the Bishops: Whereupon the Pope was in a grievous Danger; but he who had formerly Excommunicated the *Normans* as Usurpers of the Kingdoms of *Sicily* and *Puglia*, had Recourse to their Assistance, granted them all that for which he had Persecuted them, and absolved them from the

Excommu-

Excommunication; and if for this Cause *Robert King* of *Naples*, and of *Sicily*, who heretofore was a Persecutor of the Popes, had not turned to his Defence, to make a Counterballance to the Emperor, he had maintained his Cause with a total Victory, but by the help of *Robert* the Pope was supported, although in Exile; and he being dead in his Assistance and *three Rogers* of the same Family, the same Contention continued likewise with the two Successors of *Gregory*, both Monks of the same order, the last of which was *Urban 2d*, who in Reward of the Services done by the *Normans*, gave one of them a Bull for the *Monarchy of Sicily*, really granting them a greater management in the Affairs of the Church, than that he would take from the Emperor: Which to do, besides the Excommunications he often repeated against the Emperor, and the Rebellions he stirr'd up against him, making his Eldest Son to Rebel against him also, and by his means excluded the Emperor almost out of *Italy*. But he being dead, the Pope who Succeeded, repeated the Excommunications against the Emperor, and raised many Rebellions, making his other Son to Rebel also, with whom the Father engaged in War, one time overcome, and another time Victorious, came finally to conditions of Agreement wherein he was cheated, and reduced to a Private Life, left the Empire to his Son, who was called *Henry*.

Henry 4th being dead, *Paschal*, for so was called the 4th Pope amongst them, for beginning from *Gregory 7th*, they fought with Excommunications and spiritual Weapons, for the taking away of the Investiture of Bishops, and Abbies from the Emperor; he assembled a Council at *Gnastalla*, and then at *Troyes* in *France*, and renewed in them both the Decrees of *Gregory 7th*, and of *Urban 2d*, that no Lay-man should hinder the Conferring of Benefices. In *France* the Decree was not accepted by the King, but he continued according to Custom, and also the Emperor *Henry 2d* the Son opposed it, who in the year 1110 came Armed into *Italy*, for the Crown of the Empire, to which the Pope having opposed himself by Controversies depending between them, they agreed that *Henry* should go to *Rome* for the Crown, put the Controversie of Investitures to silence, neither party being to speak of them. *Henry* went to *Rome*, where Pope *Paschal* appearing to him to be Superior in strength, not remaining firm in the Conditions, he would have him to renounce the Investitures, and *Henry* confiding in his bold Forces, proposed on the contrary, that the Pope should revoke the Decrees, saying, he would not be inferior to *Charlemain*, *Ludovicus Pius*, and other Emperors who had given the Investitures Peaceably and quietly; whereupon the Contentions encreasing, the Emperor took the Pope Prisoner, and the most part of the Cardinals, carrying them from the City; an Accommodation was treated on, and finally the Pope agreed to Crown him, and to let him have the Conferring of Benefices, without Excommunicating him for it, and he Swore to the observation of the Agreement, and the Mass being Celebrated, the Pope divided the *Waffer*, and with one half he Communicated himself, and the Emperor with the other half, making Cursed and dreadful Imprecations, for which of them should be a Violater of the Agreement.

The Pope gone back to *Rome*, said he would observe the Agreement, but yet his Legates Excommunicated the Emperor and he two years after in 1112. Call'd a Council, Confirmed the Decrees of *Gregory* and *Urban*, that no man should receive Investitures from Lay-men, and caused

caused the Council to annul the Agreement made with the Emperor, and finally in 1116, Excommunicated him besides. *Pascal* dyed, and *Gelasius* the 2d Succeeded him at first, then *Calisto* the 2d, with whom the Contention lasted, and by whom and by all of them the Emperor was Successively Excommunicated. These three *Popes* did not only make use of Excommunicating, but also stirr'd up many Seditions against the Emperor. The chief of one was *Lotharius* a *Saxon*, who took up Arms, and had many Victories; finally in the year 1122. *Henry* perceiving himself in so many difficulties, renounced the Investiture, and a Tumult was appeased which had lasted 56 years, under Six *Popes*, by Excommunicating an infinite number of Persons, both Ecclesiastical and Civil, who adhered to the Emperor, and by the Death of numberless Persons on both sides, in threescore Battels fought by *Henry* the Father, and in eighteen fought by *Henry* the Son; tanta Molis erat, to lay the Foundations of that Building, which we have seen brought up to the Top of the Battlements, whereof we are to speak.

In the Occurrence abovesaid happened between *Pascal*, and *Henry*, the Judgment of the World was various, some saying, that the Assent yielded unto by the Pope was *Null*, as done out of fear, finding himself and so many Cardinals in the Emperors hand, and therefore with Reason *Pascal* opposed him, and ceased from observing it: But on the other side, it was said, that if the *Popes* Assent were invalid for being extorted with Fear, no less ought to be held for invalid the Assent yielded to by the Emperor, for Fear of so many Excommunications and Anathema's, of so many Rebellions and Machinations; for which cause he is subject to restore that which is done for Fear of Imprisonment and not that which is done for Fear of Anathema's, and for Fear of seeing all his Dominions and People in Confusion, and in Civil Wars. Some men in Counsel in the presence of *Pascal*, made use of this Dilemma; if the *Decree*, and the *Bull* of his, by which he granted Investiture unto the Emperor were Lawful, they ought to be observed, if they were unjust, and as some say Heretical, then was the *Pope* Author also Heretical, and unjust: 'Tis true indeed, that a thing just and due although done out of Fear, is valid, and that no man whatsoever is blameless, if for any kind of Fear he acteth contrary to the Law of God.

The Contention of the *Popes* with the Emperors, about this matter of giving Investiture of Bishopricks and Abbeys, stopt not only in *Italy* and *Germany*, Kingdoms of the Emperor, but in the same times also in *France*, some of the Bishops stirr'd up by Example, and through Interest, opposed the King for the same cause; but because all were not agreed to make a League with the *Pope* against the *King*, the King for the most part overcame him, and the *Popes* were content to gain that by little and little, which was Impossible for them to do all at once together.

In *England* the King having alwayes conferr'd Bishopricks, and Abbeys, in the year 1102, *Anselm* Arch-Bishop of *Canterbury* refused to Consecrate the Bishops provided by the King, he adhering to the Decrees made by the *Popes*, and the Contention lasted many years; the King maintaining his Authority, and the Arch-Bishop by the help of the *Pope* defending his Opposition; the King believed himself able to persuade the *Pope* to that which he reputed Just, therefore he sent an Ambassador, who received such rough Answers and Threatnings from the

N. 106:

107:

108:

Pope

Pope, that to take off his Edge, the Ambassador thought fit to tell him, the *King* would not lose his Authority, although he were to lose his Kingdom, to which the *Pope* replied with no less boldness that he would not permit it, although he were to lose his Head.

- N. 109. The *King* remained Constant, and it behooved *Anselm* to depart the Kingdom, incapable of returning, without Consenting to the *King's* Will. But the *King* dying without Heirs-Male, and some Civil Wars happening, 'twas easie for the Clergy-men to prevail, and to introduce That into *England*, which had been introduced in the Empire, where after the Cession of *Henry*, of which hath been spoken, the *Pope* obtained his intent; true it is, that in the year 1132, *Lotharius* the Saxon Successor of *Henry* the 5th Emperor, being sought to by *Innocent* the 2d, engaged in a Schism, that he would acknowledge him for *Pope*, and not his Adversary; refused to do it, unless the Investitures Renounced by *Henry* were restored to him; and perhaps the *Pope* would have granted them, but *St. Bernard* very intimate with *Lotharius* perswaded him to desist, proposing to his Consideration, that he having made War against *Henry* his Predecessor and Lord, upon *Pope Paschals* Instance for that cause, afterwards to be willing to make himself a Defender of *Henry's* Pretention, was to declare himself a Rebel, and that he had made War against his Lord, while he was defending a just Cause.
110. That which usually happens after great Victories, namely when all the Forces of the Enemy are not Extinct, the Fragments or the Remainder of the overcome Party, oftentimes spring up again with old Pretensions, which the prudent Vainquisher temporizeth dexterously, rather than oppose himself openly by renewing a War, so it fell out in these present occasions.

- The *Popes* not being able to have the Victory, of such a great Pretention so entirely, but that in some Places, some Benefices would remain in the Power of the Laity, and that a Prince sometimes for some Necessity of his Government, without Regard to the *Pope*, would bestow some Bishoprick after the first manner; There remained in *France* the *Regalia*, which is a Right of the King to Confer all single Benefices Vacant by the death of the Bishops, until the Successor be Created; There remained in *Germany* a Right of the Emperors, of giving only one of the Canon-ships in many Churches, and so divers particular Authorities were retained by some Princes.
111. The *Popes* that they might not (by Contending for these particular uses) renew the Contention with hazard of losing the whole, or else by letting them run on, they might do prejudice to the general Cause, thought it requisite to make Provision, both by Negotiation and Art. They found a Temperament or Compliance, by causing the Canonists and other Scribes depending on them, to Write that these Princes enjoy'd that Authority, through Priviledge granted by the *Pope*: This served the *Popes* for a Reputation, to make appear that Princes had no Right, but by their grace and favour, and assured them also that they might pretend further, and 'twas easily passed over by the Princes, to whom it seemed, that it was to secure them from the Molestations which

112. the *Popes* might give them, and by adding an Ecclesiastical Title to their own Possession, make it more secure. But the Event shew'd that to be Poyson, which was esteemed Physick; For about 1300, *Boniface* the 8th, exercised sharp Contentions with *Philip* the fair of *France*, that he should yield up the Authority of the *Regalia's* abovesaid, and they

they proceeded so far, that this Kingdom was exposed to great Danger, by *Excommunications* and *Interdictions*, by depriving the King, and by granting the Kingdom to *Albert the Emperor*. At first when twas assented to, it was not well thought of, to whose account it would turn by the Apostolical granting to preserve that which was the Princes Peculiar; For the *Popes* since pretend they can revoke the Priviledges granted by their Predecessors, even without a cause, though indeed they never want Pretexes to feign a cause, and whosoever Possesseth by a Title of his own, and is content to acknowledge it for another mans Favour, is like him who leaving his own ground, goes to build on another mans.

But on the other side when some Prince having broken Patience, conferred some principal Benefice, which the Kings of *England* and of *Sicily* oftentimes did, the *Popes* not to engage in Contentions, said nothing more to the Prince, but not to let themselves be prejudiced, they wrought by Practises through the Monks means, that the Elected should renounce into the Popes hand, promising him he should be invested by the *Pope*, and so should have that quietly, wherewith if he had not been contented, the *Pope* would have opposed it, and brought all into difficulty.

N. 113.

Of these Practises then used frequently by the *Popes*, *Florentius* of *Wingerin* and *Ivo Carnotensis*, who were Writers in those times, make a long Relation, as of a thing usually done in *Germany* and in *France*, with this Form of Words, that the *Popes* took with one hand, and gave again with the other. This agreement was easily accepted, as that which freed one from Trouble and Molestation, and the same King if he came to reflect afterwards, whether he past it as a thing which made no Alteration in effect, without considering, that it might import for the Future: Which manner they now make use of against the Catholick *Bishops* in *Germany*, who do not obey their Reservations, as shall be spoken of in its place.

114.

In *Spain* the quiet and prudent Disposition of the Nation, together with the good Government of the Kings, were cause that in so universal a change they passed it quietly; perhaps forwarded hereunto by the Exercise the Saracens gave them, which made them think of remaining united to their King, and of living in Quietness; The Kings never went about subjecting the Clergy more than convenient, and they never made a League with Strangers, to exempt themselves from the Kings more than their due. As soon also as the Kings perceived, that the *Popes* of *Rome* had by Power, by Terror, or by Practices obtained something in other Kingdoms, they endeavour'd to accommodate themselves according to those things, in such a manner as might make the least alteration possible in their Government, for as touching the Custom of times past, the Bishops, and other Ecclesiastical Ministers were ordained according to the Antient Custom, the abovesaid Alteration being made in other Kingdoms and States, they would not lay hold on a Contention with the *Popes*, but by a prudent Compliance they were contented, that no Bishop should be Ordained without their Consent, and *Alphonso* the 6th, the better to secure himself, sought for *Urban* the seconds Approbation, who granted to the King the *IUS PATRONATUS* of all the Churches in his Kingdom. Those Kings have proceeded quite otherwise than the *Germans*, *French*, and *English*; They were content to acknowledge for anothers favour that which was

115.

their own, so that it might serve to enjoy it more Peaceably; These have striven that they might not acknowledge their own from another mans, but all with Prudence.

- N. 116. These saw there was a way to lose all, and to become Subjects, because the Popes Demand not the utmost scope of his Intention, but a Degree of proceeding further; his Subjects considered, chiefly the Clergy-men inclinable unto Liberty, not to say Licence, and therefore ready to agree with the Stranger, to diminish the Authority of their Prince, whereupon they saw it necessary, that there should be no Door open, by which they might have Recourse.

But the *Spaniards* being confident of the quietness of their Subjects, had no Reason to fear, that suddenly they would move for a Recourse out of the Kingdom, but considering the Anxiety of their Affairs in those times, they had good cause to fear, lest those who had been able to make Subjects Rebel against Princes so much greater than they, should use the same Arts; and therefore they resolved most Prudently, to receive speedily that which greater than they were constrain'd to tolerate after much Wars.

117. Now for a Conclusion, In the time which past between 1122, that Henry made his Renuntiation, unto 1145, it was established almost every where, that the Bishop being dead, the choice of the Successor should be made by the *Chapter of Canons*, and should be Confirmed by the *Metropolitan*; and if the *Abbot* were dead, the Election should be made by the *Monks*, and Confirmed by the Bishop, if the Monastery were unexempted: If it were exempted, it should be Confirmed by the Pope: Other Benefices which were *de JURE PATRONATUS* were Confer'd by the Bishop on the Patron's Presentation: All others were at the free Episcopal disposing. The *Popedom* of Rome remained, for the Prince being Excluded, it seem'd that it ought to return to the free Election of the People, but from the year 1145, *Innocent* the 2d having a Difference with the *Romans*, and being driven from the City by them, he in Counter-change deprived them of the Power of choosing the Pope.

118. In the Troubles which happened for the causes abovesaid, many Cities were in an Uproar by the *Bishops* Confederate with the Pope, which revolting from the Emperor, and were headed by the Bishops, whereby they obtained the *Publick Incoms*, and the *Regal Rights or Duties*; and when the Differences were Compos'd, they had taken so firm Possession, that the Prince was Necessitated to grant them in *Fendo* or *Fealty*, that, which *de Facto* they had usurped to themselves, by which they acquired also the *Titles of Dukes, Marquisses, and Earls*, as many of them are in *Germany*, who remain still such, both in Name, and in Fact; but in *Italy*, in *Name only*, which made Clergy-men a great quantity of Secular Goods, and the Augmentation was very notable, not only during the Troubles of which we have spoken, but also in those which followed under the *Svevian Emperors*.

119. The Monks in this time had intermeddled greatly, in favouring the undertaking of the Popes against the Princes, for which they lost somewhat of their Reputation of Holiness; and indeed there was also lost much of the Discipline, and Regular observance in Monasteries, because they intermeddled or crept into the *Negotiations of State*, and of War, wherefore their acquiring or purchasing ceased also, unless in some little Congregations newly instituted in *Tuscany*, who intermeddled not in these

these Commotions, but preserved their Discipline, and therefore the Devotion of the People continuing towards them, they were instruments of acquiring New Estates, but yet not many, they being but few.

But another Occasion happened which caused great Acquisitions in the times whereof hath been spoken, which was *the Warfar of the Holy Land*, and the heat of zeal was then so earnest, for going and for contributing to the gaining of it, that men making no account of Goods, of Wives, and of Children, engaged themselves in this Warfar, and selling their own, went beyond Sea; yea the very Women without having Respect to their Childbearing, sold their Goods to contribute towards the War. The Popes with their Priests, and other Prelates received under their Protection the Houses, and the Affairs of the *Cruci-Signati* (so were called those who went to the War) and that brought to the Churches such an encrease, as is wont to bring the being Tutor, Curate, or a Procurator for Widdows, Orphans, and Persons under Age; neither could the secular Magistrate so much as think of defending any one, for Terror of the Censures which they made use of without sparingness.

The holy War Contributed great Wealth to the Roman-Church.

N. 120.

A great Point was added, which *Eugenius the third* Constituted, that for this Pious work, every one might alienate the Fee-Farms he held, which if the Patron could not receive, yet against his Will they might be taken by the Churches, which opened a broad way to the purchasing very largely. It happened also that the Popes of Rome made use of the *Armes prepared for the holy Land* in some Enterprife, whereby they augmented the *Temporal Estate* of the *Roman Church*: And also the Popes Legates, and the Bishops of the place where the said Arms were met together to unite themselves for the Voyage, they made use of them for divers *Augmentations of the Churches Temporality*.

There being also offered and gathered a great quantity of money, taken from the Faithful, especially from Women and others who were unfit to serve in the Wars personally, likewise to free ones self from a *vow made*, as also to obtain *Indulgences* and other *Grants*, all was not spent in that War, no doubt but some Prince might partake of it, but a notable share remained still in the hands of the *Prelates*, whereby Ecclesiastical Affairs made some Augmentation. After this were instituted the *Military Religions of the Templars, Hospitallars &c.* for the defence of the *Temple Built at Jerusalem*, for the *Pilgrims* who went thither, and for to fight against the *Saracens*, which although it was a new thing to *institute Religions for the shedding of blood*, yet it was received with so much Fervor, that in a very short time they gained great store of Wealth: All these wayes brought great encrease of Riches to the Church. There was also another way of giving a very notable encrease to the Wealth of the Church, or Clergy-men, the *Reviewing well the matter of the Tythes*, and where they were not paid, to proceed with Censures that there should or ought be paid not only the *Predials* of the Fruits of the Earth, but *mixt Tythes* also, which are the Fruits of Cattel, and likewise the Tythes of Personal Industry and humane Labour.

121.

122.

Reviewing of Tythes added more Riches.

First-Fruits.

Unto the *Tythes* were the *first Fruits* joyned also, which were first instituted by *Alexander the 2d*, herein imitating the *Mosaical Law*, which commanded that People to pay them; the quantity of them was not Established by *Moses*, but left to the *Arbitrement* of the Offerer.

The *Rabins* afterwards, as *St. Hierome* Testifies, determined the quantity, which was not more than the 60th, nor less than the 40th, which indeed hath been imitated by ours in the most profitable manner, having settled the 40th, which in our times is called the *Quartese*.

- N. 123. *Alexander* the third about the year 1170, determined that they should proceed with Excommunications, to cause the entire payments for the Tythes of Mills to be made, and of Fishing, of Fur, of Wooll, and of Bees, and that the Tythes of every thing should be paid, before the Charges made for the gathering of the Fruits should be deducted; and *Celestin* the 3d, in the year 1195, established that they should proceed with Excommunications, to cause payment to be made of the Tythes not only of the Wine, Corn, Fruits of Trees, of Gardens, of Sheep, of Merchandize, of Souldiers pay, of Hunting, but also of Windmills. All these things are expressed in the *Decretals of the Romish Popes*; But the *Canonists* have gone much further, saying, that the Poor are obliged to pay Tythe, for that is given them by Alms in begging at doors, and that the *Harlots* are bound to pay Tythe of their Gain by Whoredom, and of such other things which the World could not receive into use.

124. Tythes were paid unto the Curates, for the service which they afforded to the People, in Teaching the word of God, in Administring the Sacraments, and in performing other Ecclesiastical Functions; so that for these Ministeries nothing was paid; some Pious and Rich Persons gave if they pleased, something for the Burying of their dead, or for receiving the Sacraments, and the custom went so far, that *Curtesse was turned into a due Debt*, and the quantity how much was to be paid, was also brought into a Custom, and came to Controversies, *Secular men refusing to pay anything, for the Administration of the Sacraments, because they paid Tythes therefore*, and the Clergy-men denying to perform their Functions, unless there were given them that which was Customary; About the year 1200, *Innocent* the 3d remedied this Disorder, by forbidding the Clergy indeed from Contracting for any thing for their Administration, and to refuse it to those who would not pay them, and commanded they should perform the Functions without more ado. But after this was done, by Censures the Seculars were forced to observe the *Laudable Custom* (as the Pope calls it) in paying that which was usual, putting a great Difference between forcing before-hand by Contract, and forcing afterwards by Censures, approving this as Lawful, forbidding the other as Simoniackal.

Other wayes
of gain.

125. Another Novelty was also introduced contrary to the old Canons, which Contributed much towards their Gain. It was *Prohibited by the Canons, to receive any thing by Donation*, or by Will from several sorts of Publick Sinners; as from Sacrilegious Persons, from him who remained in Discord with his own Brother, from Harlots and other such Persons; all these Respects were quite laid aside, and all indifferently received, especially the greatest and most frequent *Legacies and Gifts are from Harlots*, and from Persons who through disgust with their Relations, leave or give to the Church. Thus the *Popes of Rome* used great diligence to help forward the Purchasing, as well as to preserve the Power of Distributing what was Purchased, which (as hath been said) was with so much Labour and so much Blood, snatcht or drawn out of the hand of Princes, and reduced to the Clergy. To which all the Ecclesiastical order, for their own Interest not only consented, but helped

126.

ed it by Preaching, and by Writing, alwayes inculcating that it was an *Usurpation of the People*, and a *Tyranny of Princes to have any share of meddling with the Distribution of Benefices*, and chiefly with the *Election of the Pope*; and in our dayes one of the Arguments treated on by *Baronius*, throughout all his *Annals*, with all opportunity and importunity is this, *that it was with an Impious and a Tyrannical Usurpation of those Princes and People, to intermeddle in the Election of Bishops, and chiefly of the Pope*; not considering that the best Popes have been provided by Princes, and that alwayes when Clergy-men only have made the Election, infinite disorders have sprung up: But that which imports more, is, that Popes of a most holy Life, and Emperors of perpetual memory, have commended that Practise, and judged it necessary, neither can it be now blamed, without flandering two Dozen of holy Popes, and particularly *St. Gregory*, and the Antient Doctrines of the Councils, and of the holy Fathers. If at first the Mistry had been discovered, whereto would have tended this taking away the Investitures from Princes, the Clergy would not have been perswaded unto Novelty; but they believed their own Interest and liberty were concerned, wherefore the Practise began of bestowing Benefices in manner abovesaid, every one in his Diocess, some by the Election of the Chapters, some by Collation or setting of the Bishop; and likewise the Pope bestowed those in the Diocess of Rome, and meddled not with giving Benefices out of his Diocess, unless sometimes in one case only, that is, when any Prelate being gone to Rome, either for Devotion or for Business dyed there, and in his company there hapned to be some noted Person of the same Nation, the Pope immediately Created him in the place of the Deceased, and sent him back, writing to the Diocess, or to the Monastery, Lamenting the death of the Deceased, and consoling them with the substitution of the Person he had sent them; This thing was easily consented unto, as well because it hapned but rarely or seldom, as because it appeared to be the Popes favour also, there being no cause of refusing a Person deserving, and of the same Country; but when the news of the death came to the Place, if the Pope had made no Provision already in manner aforesaid, they stay'd no longer, but provided of themselves according to Custom. In nothing else did the Pope meddle with Ecclesiastical Causes out of the Diocess of Rome.

N. 127.

128.

The Pope of Rome nevertheless was very deserving from all the Clerical order, seeing that so many Popes with so much Toyl and Labour, together with so much Blood-shed had gained them that Power and Dominion over Benefices, and excluded the Princes, who from antient times, and the People who from the beginning had Possession of that Right, wherefore he was held in great esteem by the Bishops, who sought to gratifie him all the wayes they could; which put the Popes in mind of dealing with the Bishops after that manner as the Emperors were wont, which was, to recommend one to them to be provided with a convenient Benefice: At first these Requests seemed very strange to the Princes, they opening a door by which Strangers or Outlandish men got an Inlet to be Beneficyed in their Kingdoms, and yet they were favourably accepted, and answered by the Bishops with gratification, who only were intent on the Excluding of Princes, never thought that another by depriving them could assume to himself the settlement of Benefices. But shortly after through the Profitableness which the Court received from those who made Presents to obtain the Popes favour, and for the Char-

129.

ges

N. 130.

ges of Bulls, they began to multiply the desires and the Recommendations of the Pope in such a manner, that the Bishops became deprived of almost all Collations : Whereupon they were sometimes forced to pass without complying with them; the Popes found a Remedy for this, by adding Commands unto his Requests, which were obeyed at first, but for being too frequent, it constrained the Bishops to transgress the Command, and without Respect thereunto, or to the Censures therein Contained, they made Collations in regard to themselves and to their Churches, and it behoov'd the Pope afterwards to be content for a thing done, and to pardon them, seeing there was no other Remedy.

131.

Power of
Dispensing.

132.

133.

The course whereby Benefices were obtained in Rome, would have been easily stopt, but there was a Remedy invented for it at Court, for besides the desires and commands, they added an Executor, who if the Bishop would not confer the Benefice, he was to confer it, and to punish the Bishop besides for Disobedience. However they used that Method but sparingly, and when the Bishop had been stubborn. But at last for a quicker dispatch they came to yield to Prayers, to the Mandate, and to Execution altogether. Wherefore the Churches and the Bishops felt themselves much aggrieved, and the Princes and the Nations complained not only for being deprived of their Faculties, but also because by that means, the Benefices which by a most antient custom were bestowed on the Natives, fell all unto strangers, who were at the Court of Rome, whereupon oftentimes those were made Bishops and Curates, who understood not the Peoples Language, which they were not apt to learn by reason of the great Difference, as many *Italians* who were Beneficed in *England*, and the disorder grew so great that he (chiefly the Curate) who understood not the Language of the People, was forbidden by the Pope of Rome from having any Benefice, reserving to himself the Power of Dispensing, which did not remove the disorder, but only encreased the Charges of the Soliciters or Entreaters, and the Profits of the Court, they not sticking to give the Reversions unto strangers, granting them afterwards a *Brief of Dispensation*. But although such ample Authority which the Court of Rome had assumed to it self, was displeasing to men of good zeal, yet it was most grateful to a great number of Clergy-men and other Persons desirous of Benefices, who were subject to Canonical Impediments, which rendred them incapable: This sort of Persons no Bishop durst to promote, as retaining the due Reverence to the Canons; Nevertheless that which no man would do, the Pope did easily, dispensing against Canons and Ecclesiastical constitutions, introducing the saying; *de Plenitudine Potestatis*; and the little clause, *non obstantibus*, (a thing unknown and not heard of in so many Ages) which is now put into every Beneficial Bull, yea the Popes themselves in the distribution of the Benefices of the Roman Church, in good time or times of Prosperity, made Profession of being greater observers of the Canons than any other Bishops; and one of the glories of the holy Popes, as may be seen in St. Leo, and his Successors was the punctual observance of the Canons, first by themselves, then by others; neither ought it to be said, that these were of less authority, but certain it is they were of greater goodness and knowledge, and they durst not do otherwise, than what was permitted unto others, whereas afterwards every thing was done at Rome, which others durst not do elsewhere.

St. Barnard who lived in the first times of these Introductions, which although they had not past so formerly as happened afterwards, writing to *Eugenius*, the third, rebukes them sharply, complaining that the City of *Rome* was the place, whereto the Ambitious, the Covetous, the Simonists, the Sacrilegious, the Concubine-keepers, and the Incestuous had their Recourse to obtain *Benefices*, for they found none who would receive them in other places, *Rome* being the only place, which made that Legal or Lawful, which every where else was reputed unlawful.

The Popes themselves could not deny, but that the granting of these Expectancies or Reversions were burdensome to the Churches, yea *Gregory* the 9th C. *Mandatum de rescrip.* confesseth it with open words, wherefore they were restrained by inserting this little Clause, *If we have not written for another*, bringing into Custome, that every Pope might grant a Reversion upon any Church, and no more. Besides they were wont afterwards at their entrance into the Popedom, to revoke all the Reversions granted by their Predecessor, that their own might take place more easily, or else that those who had obtained them, might be necessitated to have new ones at new Charges, for to Confirm them therein; as for *Elective Benefices*, which are *Bishopricks* and *Abbeys* they gave no Expectancies or Reversions, there being no Example of it, for they had been bestowed by the Princes, but the Court invented other Modes or Wayes, whereby they often drew the Collation of them to *Rome*, setting forth many Conditions which were necessarily to be observed, before coming to the Elections, and others in the Celebration thereof, and requiring divers qualities in the Person of the Elected, adding thereunto, that if any of these were not observed, the Electors were for that time deprived of the Power of Choosing, which devolved it self to *Rome*; Besides this also, and for divers Respects of the Electors, or for other Causes, there arose amongst them difficulties about the Election, for which cause one of the Parties would Appeal to *Rome*, where most commonly the wrong was given to both, and the Election made invalid, and the Collation of the Bishoprick or Abbey for that time was drawn to *Rome*. Also when the Court heard of a vacancy of some good Bishoprick or Abbey which had happened, it dispatched immediately a Letter Preceptory, that there should be no proceeding to the Election without his knowledge, and with an honest shew or colour of helping or preventing disorders which might happen, he sent a Person to assist and preside in the Election, through whose means by divers wayes and managements, the Election was made to fall on him, who was to be the greatest Benefactor to *Rome*.

There happening then for the causes above written, that few Elections of Bishopricks and of Monasteries were Celebrated, but for some of these Respects were examined at *Rome*, whereupon the Pope mediated or interposed himself in most of the subsequent Elections, covering it with the honest Title of *Devolution* for the publick service, seeing that the usual Electors wanted of that which was their due, they thought it convenient to put to their hand also, either by commanding when it seemed to them, that the Electors should not come to the Election without their leave, or that they should not chuse, but by the Counsel of some Persons nominated by them; thus by different wayes they came to assume some share in the Elections also. These methods variously used according to the Exigency of Accidents, had not the

Power

N. 137. *Power of a Law, but of Customs, or of Reasonableness* unto the year 1227, when Gregory the 9th having considered how *Theodosius* formed the Politick of the Empire, Collected his Rescriptions or Decretals and those of Preceeding Princes into a Book, which was afterwards called the *Theodosian Codex*: And *Justinian* having accommodated the Antient Laws, according to the times then being, and reduced the Decrees of his Predecessors into a Body, he called them the *Justinian Codex*. So the same Gregory the 9th, framed a Politic, having reduced into a Body all the *Rescriptions* or *Decretals*, together with the Accidents which happened, serving to the *Roman Greatness*, and having extended that to a common use, which had been established for a particular place, and perhaps for that special case only, and having abolished others, called that Book the *Decretal* of Gregory the 9th, which began to lay the Foundation, and to establish the *Roman Monarchy*, chiefly in *Beneficial matters*, in which Book there is much more concerning the Edification of Law-fruits, than concerning the Edification of Souls.

138. The old Collectors of Canons, Particularly *Gratian*, made a Collection of all that he accounted proper to the Papal greatness, yet not without Changes, Alterations, and *Falsifications also of the Places from whence the Sentences were taken*; and 'twas believed by him he had raised that Authority to the greatest height it could attain unto, and for those times he was not mistaken; but Affairs being altered, that Com-
pilement was not for his purpose, but after that which he called *his Decree*, followed this *Decretal*, which gave no satisfaction neither, but from time to time as the Popes advanced in Authority, they framed new Rules for themselves, so that in the matter of Benefices, neither the *Decree*, nor the *Decretal*, nor the *Sesto* have any more Room, but other Rules as shall be spoken of.

139. The great Method which the Court of Rome used in bestowing of so many Benefices, drew thither all sorts of Clergy-men, those who had none to gain some, and those who had, to aspire unto greater or better: So that besides the old causes this also was added, that many became *non-Resident*; which the Court could not dissemble, for every Diocess complained that the Churches were without Government, and attributed the cause of the Evil where it truly was, wherefore 'twas resolved some Provision should be made for it. Therefore it seemed not convenient to the Popes of these times to proceed as formerly with Castigations, because the disorder was too common, as also because it would have been a means to send all out of Rome, which if it should have been done, the Court would have remained empty, and every one would have endeavour'd to obtain Benefices from his Bishop, near to whom he was personally, rather than to send Salaries, and Messengers to Rome, for the obtaining of Expectancies or Reversions; However a Medium was found by making of Laws, which commanded Residency to that sort of Beneficed men, who could expect but little from the Court, speaking nothing of others; Thus *Alexander* the 3d in the year 1179, commanded Residency to all Beneficed Persons who had the Cure of Souls: Then 'twas added also, all those who had Dignities, Administrations, or Canon-ships; of other inferior Beneficed men 'twas never said they were obliged to Residency, and much less were they commanded to Reside, wherefore by little and little they accounted themselves not obliged to it; in such manner there arose a Distinction of Benefices, some of which required Residency, and others simply
which

140.

which obliged not thereunto; wherefore the Doctors declared the Progress, that *de Jure* all are obliged unto Residency, not being able to say otherwise without perverting Antiquity, but through custom they say single Benefices Excepted.

It was a most common saying: *Beneficium datur propter Officium*, wherefore these being disobliged from Residency, having no Office, it seemed that the single Benefice remained as a vain thing in the Church. For which they found a remedy by an Equivocation. The Canonical hours which at first were Celebrated in the Church, by all the Fraternity, and afterwards some made it Lawful for themselves to say them privately, about the year 800, they acquired the name of *Officium divinum*, which being Celebrated by all, either in common or in private, the truth of the Proposition was saved: *Beneficium datur propter Officium*; that is to say, for repeating the divine Office, not for serving the faithful People residing in the Churches, and exercising the charge as formerly, and this is that *Officium*, answerable unto *Beneficium*. Therefore the Conscience of many Beneficed men being secured by this means, that they might be absent from the Church of the Benefice, it seemed also necessary to find out a way that when it had been needful to cause any one of those to remain at Court, who was obliged to Residency, it might be done without derogating from the Laws. Whereupon *Honorius* the 3^d about the year 1220, declared that he who was in the Popes Service, should not be obliged to reside; nothing else remained, but to find a way how they might take away Residency from some Rich Benefice under Cure, which failed not; for it being an ordinary thing for the Parson of the Parish at times when he is Lawfully hindred, to appoint a Vicar to serve for him, allowing him a convenient Stipend; so it is found, that they might (but with the Popes Authority) Create a perpetual Vicar, appointing him a sufficient Portion, and leaving the remainder to the Rector, obliging that Vicar unto Residency, although the Rector draws the greatest part of the Income, and remains free himself, whose share becomes as a single Benefice, and that of the Vicar remains for the Curates Provision. And as it was unknown to the Antient Church, that any Benefice was given but for the Office sake, and therefore every one is obliged to execute his Office Personally; so there was never one man deputed unto two Charges or Offices, not only for being impossible when they are to be exercised in different places, but also because those holy men accounted it no small matter to perform one well, and there are many Canons, to which ancient Institutions are refer'd, that one cannot be Ordained to two Titles, nor serve in two Churches.

N. 141.

142.

143.

In those times when Benefices were distinguished into such as have Residency, and such as have not; Consequently 'tis come to be said, that of those, where it is not necessary to serve in ones own Person, a man may have more than one, and there arose a distinction of *Compatible*, and of *Incompatible Benefices*; those which require Residency, are *Incompatible* amongst themselves, a man being not able to divide himself into different places, but these with others, and they amongst themselves are *Compatible*, seeing it is not necessary to serve Personally.

Benefices with Residency and without.

Benefices Partible and Incompatible.

However in the Beginning, they proceeded in this matter with great Respect, and went no further than to say only, when a Benefice was not sufficient for the Clerks Living, he might have another *Incompatible*, but they never durst go on to the third, much less unto the second, if the first had been sufficient. The Authority was never extended farther

- N. 144. unto the Bishop, but 'twas added to the Pope, that he might have Authority to grant more than two, if both were not sufficient for a Living, and this sufficiency for living is cut out very largely by the Canonists, for they say that a meer Priests Living, comprehends not only the Maintenance of the Person Beneficed, but for his Family, for his Kindred, for three Servants, and for one Horse, and also to receive strangers; But when the Beneficed was Noble or Learned, so much more besides that, as might equalize his Nobility, and that which they say for Bishops is wonderful; and for Cardinals, let the Common saying of the Court suffice: *Equiparantur Regibus, Equal to Kings*. But all this proceeding with the ordinary terms, that through dispensation every Canonist holds that the Pope may grant to one, to hold what number of Benefices he pleaseth, and *de facto*, Dispensations of the plurality of Benefices went on so far, that *John* the 22^d, about the year 1320, revoked them all, restraining the Dispensations unto two Benefices only, which being done with reserving to himself the disposing of others, (as shall be declared in speaking of *reserves*) 'twas not then believed, he had done it to take away the Abuse, but for gain, chiefly, because that Pope was a subtil inventor of wayes to encrease the Treasury, and time gave Testimony thereof; for it returned not only to its Pristine Plurality, but also unto greater, and as far as our times, we have seen, and do see, Dispensations without measure. All the Canonists and the Casuists agree that such Dispenses ought still to be given for a Lawful Cause, and that the Pope sins, if he grants them without it: But if that which is of value in the Dispensation granted without Lawful Cause, be excused, they do not agree.
- 145.

Others say, that it excuseth before God, and before men; others that it serves to avoid the Penalty of the Canonical Laws, and that in Conscience, and before God it avails not. This opinion is followed by the most Godly men, the first is most grateful to the Court, who is not pleased to have any Law imposed which may regulate the Popes Authority, chiefly in Beneficial matters; because some of them hold also, though with great contention of others, that the Pope can also grant many cured Benefices through Dispensation, however they have not made use of that opinion, seeing they have found out other wayes to bestow many cured Benefices, with Colour and Pretext which should appear but one, and these Inventions took beginning in the times above-said. One of these wayes is *Union*, the other *Commendation*, of which it will behoove us to speak anon.

Union and
Commenda-
tion.

146. 'Twas a most Antient thing, that when a People by Accidents of War, of Plague, or by Inundation was reduced to such a small number that it could not support the Charges for the Maintenance of a Minister, the Bishop gave the Cure of that People unto the Neighbouring Parish, and together with that, applied the small Incomes, and this was called *Uniting of two Parishes*. In like manner when Cities were diminished or wasted, and therefore could not maintain the Bishop conveniently, the *Metropolitan* with the Bishops assembled in Council, gave two or more to one Bishop, and these Cities were called *United*; as likewise on the contrary, when the number of People encreased, and that one man only could not supply all, one Cure became divided into two; yea unto these present times these Methods are Commendably used, which are for the Service of God, for Spiritual Benefit, and for conveniency of the People. But after they proceeded to make unions
- 147.
- also

also for the Conveniency of some Pious Place, by which means some Benefices became united to some Bishoprick, or to some Monastery, or to some poor Hospital, by virtue of which union the Party Beneficed seems indeed to have two Benefices, but in truth he hath but one. Humane subtilty invented, (being willing to give two *incompatible Benefices* to one Person) to unite the one unto the other during his Life, so that giving him the Principal, the United was also given by Consequence, by which means it saves very well the Law of having but one Benefice in appearance, but in the Existence there is nothing but the *observance of th words, with Transgression of the sense*; The *Jurisconsults* call it the *Fraud of the Law*. This served also that they might give a Cured Benefice to a young striplin or boy, or to any other illiterate Person, and without being obliged to receive Sacred Orders, by uniting the Cured Benefice to a *single one*, during Life, and Confering the *single one* in *Title*, the Beneficiary remained the Curates Patron also; and the words of the Law were very well observed. But the Power of *Uniting Benefices* for Life, was never granted to the Bishops for any Cause whatever, but reserved to the *Pope of Rome* only: Some Lawyers call it an *Union* in the Name, but in *Fact* it is a *Relaxation* of the Law, and they hold it for Damnable, wherefore also in some Kingdoms it hath been prohibited. It was long used by the *Roman Court*, now 'tis no more in use, no more than many other *Cautelous* things, not to call them *Frauds* like these which speak too Legally for the Causes, as shall be declared when we come to our times.

N. 148.

149.

The *Commendum* had also a good Antient Institution, for when an *Elective Benefice* became Vacant, either Bishoprick, Abbey, or else a Living which was *Jus Patronatus*, for which the Ordinary out of some Respect could not provide immediately, the care whereof was recommended by the Superior, to some worthy Person, until Provision should be made, nevertheless that Person had not Power to make use of the Incoms, but only to Govern them, and for this an Excellent man was chosen, who usually was a Beneficed man, to whom the recommended Cure was a burden, with which he was to be contented for the Church service only. This could not be called, having a Benefice recommended unto him but very improperly; and therefore in Reality he had not two Benefices, although to make no difficulty of speech, there arose a Maxime amongst the *Canonists*, that a man might have two *Benefices*, the one in *Title*, the other in *Commendum*, which *Commendum* at first lasted but until Provision were made, afterwards they Commended for a good while, which sometimes was long enough, wherefore the *Pope of Rome* forbad the Bishops from Commending for above six months, not making the Rule for himself, but by a Court Style the *Commendum* contracted a little Custom not altogether Commendable, which was, that when the *Pope* had a mind to give any man a *Benefice*, it could not be done, either for want of Age, or because the *Benefice* was *Monacal*, and the Person *Secular*, or for some other respect he Commended it to him so long, that he might acquire the necessary qualities for to have the *Title* of it.

Commendums

150.

But finally about the year 1350, all Respects being laid aside, the Popes holding the other Bishops strictly to the Term of six months, they Proceeded to give the *Commendum* for Life, which if it be given to one who hath in *Title* another Incompatible Benefice, he observes very well the words of the Law, that two Benefices cannot be given, but one in

151.

Title, and the other in *Commendum*; but the sense is defrauded, because that which is *Commendatory* for Life, as touching the Profits, is like unto the *Titular*; also giving a Benefice in *Commendum* to one who hath not the qualities required by the Canons, doth not disagree with the Words thereof, but 'tis given to him in Deed, and not given to him in Words: the *Commendums* of *Bishopricks* and other Benefices are almost out of use in *Italy*: There remains some *Abbeys* for the Causes which in our times shall be declared.

N. 152. By the means abovesaid, the Popes drew to themselves great share of the Beneficial Disposals, in all the Christian Kingdoms of the *West*, but in the *Eastern* Churches, he was never suffered to dispose of an *Atom*, not only in the last Ages of that Empire, when the *Greeks* were totally divided, but likewise in the first Ages also, when they were united into a Body, except that in *Syria* and in *Greece*, in the times and in the places which were under the *Dominion* of the *French*, and of the *Venetians*. But the *Popes* Letters which disposed of Benefices in manner abovesaid, although they were indeed for the most part obey'd, yet nevertheless not without some Complaint and Murmuring, putting it often to dispute, whether the *Pope* could do this or that.

In *Italy* none opposed the *Pope*, unless some Pious man for Respect of Conscience, and for the Service of God, it being besides profitable to the *Italians*, for such were the *Roman Courtiers*, who by means of the *Popes* ample Authority, received Incoms from Beyond the *Alps*. In *Spain* the Prudence of that Nation in their Practice, deluded the Arts of the Court.

153. In *England*, as in a Region where the Benefices were many and Rich, the *Roman Courtiers* made great gains, wherefore in the year 1232, a League was made in that Kingdom, between the *English* Clergy-men, and the Souldiers, against the *Roman* Clergy-men Beneficed in that *Island*, who were spoyled of their Goods and Incoms; The *Pope* Commanded the King under pain of Excommunication, that he should Chastize or Punish, and Persecute them with Temporal Arms, and that the Prelates should Excommunicate them; But they were found to be so numerous, that the King durst not meddle with them, neither did the Prelates dare to make use of their Spiritual Weapons. The Affairs remained quiet for a few years, whereupon *Pope Innocent* the 4th, a *Genoese* took fresh Courage, and sent one *Martin* his Kinsman, by whose means he renew'd the Fashions of the Court, upon which the *English* had Recourse to the King, Complaining that the *Italians* got Possession of all Benefices; The King Banished *Martin* from the Kingdom, and causing an Account to be made of how much the *Pope* drew out of *England*, he found it to be equal to his own Revenue, which is sixty thousand Marks; The King proposed some of these Differences to the Council at *Lions*, making Complaint of the abovesaid grievances, whereto the *Pope* answered, the Council was not Assembled for that purpose, and that it was no time to harken to it.

154. In the said City of *Lions* during the time of the Council, the *Pope* would have given to his Kinsmen some Prebendaries of those Churches, upon which there was a great Commotion in the City, and the *Pope* had notice given him, that they should be thrown into the *Rhone*, wherefore the *Pope* sent them away privately.

Rhodano.

For all this the Court left not off its Designs, but in the year 1253, the same *Pope* Commanded *Robert* Bishop of *Lincoln*, (a man in those times Famous

Famous in Doctrine and in Goodness) that he should confer a certain *Benefice* upon the *Genoese* against the Canons, which appearing inconvenient and unjust to the Bishop, he answered the *Pope*, that he Honour'd Apostolical Commands Conformable to Apostolical Doctrine, wherefore that *non obstantibus* is a Deluge of inconstancy, a *Breach of Faith*, a disturbance of the quietness of Christendom; that it is a grievous Sin to defraud the Sheep of their Pasture; that the Apostolical See had all Power to *Edification*, none to *destroy*. This Answer received, the *Pope* N. 155. grew wroth exceedingly; But *Cardinal Egidius* a *Spaniard*, being a Prudent man, endeavour'd to Mitigate him, representing to him, that to proceed against a man of such Reputation, for a cause so abhorr'd by the World, could not bring forth a good Effect. But whilst the *Pope* studyed to shew his Resentment, *Robert* fell sick, and to the end of his Life held the same Reasons, and dyed with an Opinion of Holyness, and 'twas fam'd that he wrought Miracles. The *Pope* hearing of his Death, caused a Process to be formed for the King, to dis-inter the dead mans Corps: But the night following, in a Vision or in a Dream he had *Robert* in *Pontifical Robes*, who Rebuked him for persecuting his memory, and smote him on the Flank with the *But-end* of his *Crozier-Staff*: The *Pope* awoke with an excessive Pain in that Place, which afflicted him unto his Death, that happened within a short time after.

In the year 1258, *Alexander* the 4th Excommunicated the *Arch-Bishop* of *York* for the like Cause, who persevering in his Deliberation, endured the Persecution with much Patience, and drawing neer to his Death, wrote a very Prudent Letter to the *Pope*, exhorting him to imitate his Holy Predecessors, and to take away the Dammageable Novelties from the Church, and from his own Soul; He dyed with the Opinion of a Saint and a Martyr. 156.

In these times 'twas likewise necessary in *France*, to make a Provision, which I shall relate after having given notice, that for these and for other Impediments which the Princes and the Bishops opposed against the endeavours of the Court, which never thought of giving over: For *Clement* the 4th, in the year 1266, resolved to lay the Foundations, whereby he, or his Successors, might declare themselves to be *absolute Patrons* in all the Collations of Benefices throughout the World, and remove the necessity of finding out Wayes and Arts to draw the Collations unto *Rome*, and made a *Bull*, which concluded nothing else but the *Reservation* of the *Vacanti in Curia*, saying, that the Collationing of them by an Antient Custom is reserved to the *Pope*, and therefore he approved of this Custom, and wil'd it to be observed; But to conclude this alone; So much an *Hypothetical Premium* can do, in saying that although the plenary Disposal of all Benefices, belongs to the *Pope* of *Rome*, so that he may not only confer them when they become Vacant, but he may also before Vacancy grant a Right for the acquiring of them; Nevertheless the Antient Custom hath more especially reserved the *Vacanti in Curia*; Wherefore we approve of that Custom. If the *Pope* had made a concluding Edict, that the Disposal of all Benefices belonged to him, the World would have stir'd in it, and as well the Clergy-men as Princes, and other Lay-Patrons would have declared their Reasons. But this Proposition being put into a Conditional without a Conclusion, went on easily without any notice taken of how much it might Import. But two years after, that is, in the year 1268, with- 157.

*Premio Hippo-
tetico.*

- without having any Respect unto this *Bull*, *St. Lewis King of France*, seeing that the Provisions made by the Queen Regent his Mother, during his Minority, and during his Absence in the Holy Land, were not sufficient to remove the Confusions introduced in the matter of Benefices, made his famous *Pragmatick*, wherein he Commanded, that *Cathedral Churches* should have their Elections Free, and the Monasteries likewise, that all other Benefices should be given according to the Disposition of the Law, and that no Imposition of the *Court of Rome* could be levied upon Benefices without his Consent, and the Churches of his Kingdom. This Holy Kings going into *Africa* against the *Mores*, and his Death which happened in the year 1270, and the need the House of *Anjou* had of the *Popes Favour*, to settle his Kingdom in *Naples*, and to recover that of *Sicily*, and the Power which the Pope granted to the King of imposing Tythes under Pretext of the War of the Holy Land, were cause, that the *French* easily permitted the *Court of Rome* to regain the same Authority; whereupon in the year 1398, *Boniface the 8th* placed the *Constitution of Clement* in the *Decretals*, and made that That which was said *Hyppothetically* and *Incidentally*, became the *Principal*, and to give it the greater Authority, he exposed under the name of *Clement*, leaving it dubious, whether it were the 4th or the 3d. Therefore now in some Copies it is Read the 3d, in others the 4th. For which cause this Proposition was given to be believed at first, *i.e.* That the *plenary Disposal of all Ecclesiastical Benefices belongs to the Pope*, which is pretended to be meant in a Sense not altogether perverted, which is, that the Pope should have full Power, *but yet Regulated by the Laws*, and by *Reason*: A little after *Clement the 5th* made void all good understanding, by saying, that the Pope had not only full Power, but also free over all *Benefices*, which freedom is understood by the *Canonists*, Exempt from all Laws, and Reason; so that he may do all that he pleaseth, notwithstanding the Reason, or the Interest, of whatsoever Church, or of Particular Person, yea even of a Lay-Patron. This Proposition is put into the *Bulls* upon every occasion, and there is no *Canonist* but passeth it for clear, yea for an *Article of Faith*, saying, that the Pope in the Collation of any *Benefice* whatever, may Concur with the Ordinary, and also prevent it, and if it so please him, he may also give Authority to whom he thinks fit, enabling him in like manner to Concur with the Ordinary, or to prevent it, as they have since given this Faculty unto Legates, with a general Constitution.
- There is nothing more Wonder-worthy in the Consideration of *Benefices*, than (it being as clear as the light at noon day) that the *Election of Ministers was at first by the Faithful People*, then it passed unto the Princes, after the Christian Faith being received, they minded the Affairs of the Church, and finally it was reduced unto the Ecclesiastical Order only, the Seculars being excluded by the Management of *Gregory the 7th*, and his Successors, yet there still remained in each Diocess, the Election and the Collation of *Benefices*, and of their *Offices*, which since by little and little the *Popes of Rome* have assumed to themselves by the wayes abovesaid, and to be said hereafter; Nevertheless the *Canonists* (either out of Animosity, or because it is not their Profession to know any thing besides the *Decretals*) have said, and do say in our dayes, without Respect unto the Notorious Truth which is against it, that heretofore the Pope provided all *Bishopricks*, and other *Benefices*, and that he afterwards out of Favour, granted the Election to the Chapters,

N. 158.

Pragmatic
Sanction.

159.

160.

Election of
Ministers be-
longed to the
Faithful.

161.

Chapters, and the Collation unto the Bishops, it is not to be doubted but one day it ought to be answered in the Articles of our Faith, for making a Doctrine to pass into the Church, which is so directly contrary to what they caused to be Preached in Former times, when *Anselmus* Bishop of *Lucca*, who wrote three Books against *Gilbert* the *Anti-Pope*, in favour of the said *Gregory* the 7th, which are still to be found, throughout all the second of which by the Authority of the Popes, of the Holy Fathers, of general Councils, by the Custom observed from the Apostles time unto his, who wrote in the year 1080, Proves that the Election of Bishops by him called Popes, belonged to the Clergy and to the People of the same Diocess, and that the most Pious Emperors *Constantine*, *Constant*, *Valentinianus*, *Theodosius*, *Honorius*, *Carolus*, *Ludovicus*, and other excellent men for Faith, and in Religion never violated such a Custom observed in the Holy Church from the Apostles time, and a Constitution of *Carolus*, and *Ludovicus Pius*, being born or Contained in the *Chapitolar*, that Bishops should be elected by the Clergy and by the People of their own Diocess according to the Canons, faith, that this Constitution is most agreeable to that of the Holy Fathers, and no less than if by the *Nicene Council*, or by any other *General Synod* it had been Promulgated by the Holy Ghost, through the Mouth of those Emperors, where 'tis seen that to take the Election out of the Hands of Princes, they held for a Tradition, that, the Contrary of which they are willing now adayes, should be Written by the Canonists, and Believed by us, so that of necessity the Canonists must Err, or else the Allegations of the Bishop of *Lucca* have erred : And if the Ordination of Bishops in their Diocesses after the manner aforesaid, was the Liberty of each one of the Churches, as the Fathers and the Councils taught, and granted them by our Lord *Jesus Christ* ; Let not those talk so disorderly, who say the Court hath put all the Churches in Bondage under pretext of defending them their Liberty.

Seek this time, that having spoken in divers Occasions of different wayes of gaining Estates to the Churches, I toucht the manner of preserving them, which is by Prohibiting all manner of Alienations; a thing Diametrically contrary to that which the Primitive Church observed. Wherefore if when 'twas Lawful by the Laws of the Prince, for the Churches to purchase Estates in Land, they might retain those which were given or bequeathed, 'twas therefore in the Bishops Liberty, not only to make use of the Incomes, but also to sell the very Estates to discharge the necessary Expences in Maintaining the Ministers and the Poor, as also to give or bestow according to Exigencies; And the Authority of Dispensator granted to the Bishop, did not extend to the Fruits only, as at present, but also unto the Estate it self, and to other Chapters, which at first was Administred with Sincerity, so that there arose no inconveniency thereby, and lasted a long time in Poor Churches, where the Estates being but small, and the Bishops of no great Authority, there was no matter or cause of Transgression : But in Rich Churches, and great ones, where the Reputation Emboldened the Bishops to attempt that which would not have been permitted unto all, and Abundance gave matter of being able to make use of some part Arbitrarily, the Bishops began to exceed the Bounds of Modesty, from Dispensing, they came to Dissipating, against which it was requisite to provide; neither the Provision proceeded not from the Clergy-men, but from Secular men, to whose prejudice it was; For the Publick Estate of the Church being

N. 162.

163.

Alienations.

164.

165.

being lessened, the Clergy were not suffered to take their Living, who were the first, but the Poor who remained to the last.

N. 166.

In the most Principal Churches, which were *Rome*, and *Constantinople*, the Provision was also first necessary, wherefore *Leo the Emperor*, by a Law of his, *Anno. 470*, Prohibited the Church of *Constantinople* from every Alienation, and in the year 483, *Basilius Cecina Præfectus Prætorius* of King *Odoacre* in *Rome*, the See of *Simplicius* being Vacant, by a Decree made in the Church, Ordained that the Estate of the *Roman Church* should not be Alienated, which was not found strange by three Succeeding Popes, but in the year 502, *Odoacre* being extinct, and all his Power, *Simmacus* the Pope Assembled a Council of all *Italy*, wherein he proposed as a great Absurdity, that a *Lay-man* should have made Constitutions in the Church, and by Consent of the Council declared them Null: But lest it should appear that this would tend to disorder, a Decree was made in the Council, that the Pope of *Rome* and the other Ministers of that Church, should not be able to Alienate, specifying that the Decree should not oblige other Churches, but the *Roman* only.

The following times shewed there was need of the same Law in all the Churches, wherefore *Anastasius* extended *Leo's Law* to all the Churches subject to the Patriarch of *Constantinople*, to all which he Prohibited the Power of Alienating.

167.

But *Justinian the Emperor*, in the year 535, made a *Constitution General* for all the *Eastern, Western, and African Churches*, and also for all *Pious Places*, Prohibiting the Power of Alienating, excepting only to Feed the Poor in case of extraordinary Famine, and to release Prisoners, in which Cases Alienation was granted Conformable to the Antient Custom, of which *St. Ambrose* makes mention, that not only Possessions, but also the Vessels were sold for such Causes. *Justinian's Law* in the *West* was observed in following times, until that *Rome* remained under the *Eastern Empire*, and there are many Epistles of *St. Gregories*, which make mention of Estates Alienated for the Redemption of Slaves. But from the times of *Pelagius the 2d*, unto *Adrian the 1st*, for 200 years the Expence was incredible which the *Roman Church* made for to recompence it self on the *Lumbards*, as well to cause them to raise the Sieges, as that they should not molest the Country, and *St. Gregory* gives good Testimony of it in his time: The Doctrine which runs at present was not then in Credit, that Ecclesiastical Estates are exempt from Common necessities, but quite Contrary; those were the first that were to be expended before they came to lay Contributions upon private Houses.

168.

Much less did it ever come into thought of putting into Controversie the Authority of Princes, about making Laws; because besides the perpetual observance, there was the solid Foundation, that these were the Churches Goods, that is, belonging to the Common, and to the Congregation of the Faithful, so that it concerned the proper Office of the Prince, to procure the Conservation of them.

Prohibitions.

Afterwards, when the *Empire* was Established on *Charlemain*, the *Roman Laws* remaining without Authority, the abuse returned, whereupon divers *Prohibitions* were made by divers Councils, chiefly in *France* where the Dissipation was greater.

But after that, the *Roman Popes* had assumed the greatest share of the Government of other Churches, seeing that a General Prohibition wrought

wrought but little Effect, the Prelates wanting no Pretex^ts, to except every particular case from the Common Law, they made divers Ordinances from the year 1000, unto the year 1250, prescribing certain little Forms of Solemnity, which served for a Bridle, and for an Impediment. But in this time whereof we speak, *Innocent the 4th*, began to declare *Null* the Alienations made without those Conditions, and *Gregory the 10th*, in the *Council at Lions Anno. 1274*, Ordained they should not be able to Alienate, without leave from the *Pope*, besides the Solemnities abovesaid also; which hath been observed, and is still observed unto our dayes, never granting any Alienation but upon evident Utility, which hath not wanted for those who have noted it for an exp^ress Iniquity, seeing that in Contracts never any man seeks for other, than for Equality, and more cannot be, but with detriment to another, specially the *Canonists*, to specify what thing this Utility ought to be, which the Church ought to receive in Alienation, some say it ought to be the *Fourth part*, others the *Third part* of the Value; So that they quite left off selling, to feed the Poor in time of extraordinary Famine, or to redeem Captives, it being Interpreted to be a damage, and not an Utility to the Church. Thus things are turned about, that which heretofore was a work of a high Perfection in Christians, as selling, and giving to the Poor, would now be subject to grievous Censures, but Perfection is in retaining Ecclesiastical Estates, which much less cannot be exchanged without Evident Utility, and the *Prohibitions* for Alienating, which were made against the Clergy-men, in favour of the Laity, are turned about against the Laity, in favour of the Clergy.

N. 169.

170.

Abuse of Pro^{hi}biti^{ons}.

But returning to the Declaration of *Clement the 4th* and *5th*, and to the Common Doctrin^e, that the Pope may Concur, and prevent every Collator of *Benefices*, this was of no great Profit, saving in the Vacant *Benefices* of the Neighbouring places to the Court, so that the Vacancy might be speedily known there, for as touching those at a Distance, his being able to Concur, or to prevent, was of little use, because before it could be known at Court, the Provision was made by the Ordinary, and had issued the Effect, or cast Lots: Wherefore 'twas invented, that which became a total Mutation in the matter of *Benefices*, and destroys totally the Antient Institution of all the Catholick Church, this is the *Reservation*, which is a Decree whereby the Pope declares before a *Benefice* becomes Vacant, that when it shall be Vacant, no man shall confer it, and the Collation which any one shall make, is to be of none Effect. And because this is an odious matter as the *Gloss* saith well, to make it be received by the World, and swallowed down sweetly, 'twas in its beginning used sparingly, by reason the absolute Reservation seemed too hard, which *Clement the 4th* had made of the *Vacanti in Curia*, whereupon *Gregory the 10th* restrained it to a month only, permitting the ordinary Provisions might be made after that. *Clement the 5th* added thereunto the Reservation of the Cathedral Church, and of *St. Cro's* Monastery in *Bordeaux* for once; *Pope John the 22d*, his Successor stretcht the Step a little further, and made a Constitution to Reform the *Plurality* of *Benefices*, Prohibiting the keeping of more than one Curate, and another without a Cure with Dispensation, excepting the *Cardinals*, Commanding that he who had more, should resign them, and for the future that he who had one Cured *Benefice*, and should receive another, was to resign up the First, and those which were resigned, should

Reservationis.

171.

172.

be reserved to his Disposal; The *Bull* for the apparent end of taking away the Plurality of *Benefices*, was a specious Reservation, though it had no other end than the Profit of the Court, passed away as a thing accessory, and which seemed at first sight without Burthen, because as yet the end whereto it tended was not discovered.

N. 173.

Annate.

Here 'tis necessary to make a little Halt, because this *Pope* gave many Examples unto his Successors for the Collationing of *Benefices*, which served to heap up *Treasures*: He divided many Bishopricks, and when a Rich *Benefice* became Vacant, he was wont to give it to a man who already had another somewhat inferior to it, giving that which was Vacant to another, prevailing so far in this manner, that sometimes for one Vacant, he made six Provisions or Promotions, by transferring alwayes from one less Rich, to another more Rich, and by providing the least or Poorest with a new Beneficiated; so that all were Contented and all paid. He invented also the *Annate* or *first Fruits*, a burthen upon *Benefices* never heard of before him, and which for sometimes Created very great Scandals. When *Emperors* or *Kings* Confer'd any *Benefices*, if those who aspired to them made any Donative, or else Contracted with the Prince or with his Ministers, to give any share of the Fruits and Incomes of the *Benefices* for to Obtain them, this was then most sharply rebuked by the *Popes*, who called it an unlawful thing, alledging the Gospel; *Gratis accepistis, gratis date*, and calling the Receipt of gifts, or of a part of the Fruits, a sale of Spiritual things, and a Contract by *Symonie*, some proceeding to call it *Herefie*, though some were not wanting in those times to give their Opinion, and say, that the Ministry of Christ, and the Authority of *loosing* and *binding* was a different thing from the Possession of Temporal things annexed to a *Benefice*, and that by reason of this Temporality, it was not disagreeing, that the Prince should receive some share for the necessities of the Common Wealth, and of this a Solemn Dispute was also made.

174.

But this Answer satisfied not Pious and learned men; for although the Revenue of *Benefices* be a Temporal thing, yet the Right and Title by which they are Possessed, is a Spiritual thing: It appeared to all men, and still it doth appear, that with good Reasons these Methods of the *Popes* were reprov'd, and called *Simony*. This Defect was made use of for the first Pretext for taking away the *Collation* of *Benefices* from *Princes*. But the *Pope* of *Rome*, having by the Progresses above written, gained great part of the Power whereof the *Emperors* were spoyle'd; *John* the 22d, *Anno* 1316. Ordained that for three years, every man who Obtained a *Benefice* of a greater Income than 24 *Ducats*, ought at the Expedition of his *Bull* pay a years Revenue; The three years being expired, the same was continued as well by him, as by his Successors, although some Resistance was made in divers places, and in some others they were received to pay half a years Rent only, and in other places a certain sort of *Benefices*, was only obliged to pay, the others remaining excepted.

175.

The bringing in of this, was accounted very Burdensome to private Families, the years Revenue being paid by the Beneficyed or Incumbent out of the Household Stock, there being a Hazard that he may dye before he makes good that money to the Family, and *Princes* found it a great grievance to their Government, such a notable share of the Cash being drawn out of their Dominion, without receiving any Profit for it, and so much the more grievous, as this Work is accompanied

panied with the Expence of *Bulls*, *Dispensations*, and *Presents* or *Gifts* beforehand, all which carry away the Money which is the finew of Potency, and it never returns as it doth by way of other Commerce.

When this *Novelty* was introduced by the *Pope*, the ordinary Persons could not perceive what difference there was betwixt this Payment, and that which was so much blamed in those dayes when Princes bestowed Benefices, but learned men in those primitive times Condemned it universally, as favouring too much of *Simony*. N. 176.

In Progress of time, some men studied wayes to justify it, so that they were divided, one sort rebuking it as a thing unlawful, Simoniacal, and forbidden by Divine and by Humane Laws, others Commending it as a thing Lawful, yea necessary and due to the *Pope* of *Rome*, these proceeding so far as to defend that the *Pope* may not only demand a years Fruits, but more also, as he that is absolute Patron, yea of all the Fruits, not of one part only, who they also say cannot commit *Simony* for any Contract he shall make in the Collation of *Benefices*; And certainly if he were Patron as they say, the Consequence would be clear, because every man may Contract for his own, in what manner seems best to him, without doing wrong to any one; but neither God nor the World seem to consent to it. This *Pope* was so intent in drawing money from every thing, that in twenty years *Popedom*, he heaped up an incredible Treasure: Certain it is, that in his Expences, and Gifts, he was no more straightned than his Predecessors, and yet he left 25 *Millions* at his Death. *John Villano* relates that to one of his Brethren of the Colledge of Cardinals after the *Popes* Death, Charge was given to make an Inventory of the Money, which he found to be 18 *Millions* in Coyned Money, and seven *Millions* in Vessels and in Ingots weighed by him. 177.

The *First* year Fruits in his Institution from *Pope John* the 22d, Extended but unto *Benefices* which were Conferr'd, and which were paid for in the Expedition of *Bulls*, a thing which Continued unto that time; but afterwards there was also laid an Obligation upon all *Benefices*, to pay the *first* year Fruits or Revenue every 15 years, because that being united unto *Monasteries*, *Hospitals*, or to *Pious* places, they never become *Vacant*, which Imposition was therefore called *Quinden-* 178. *Quindennum*, which *Paul* the 2d about the year 1470, Constituted only concerning *Benefices* united after the year 1417, by the *Pope* of *Rome*, but *Paul* the 4th extended or enlarged it likewise to all the *Benefices* united before, and *Sixtus* the 5th Comprehended not only those united by the *Apostolical* See, but also those which had been united by *Legates*, *Nuncios*, *Bishops*, and by others. ^{L. Annat.}

But returning to the first Original of these year Incoms or Fruits, those who opposed against the Invention of *John* the 22d, with zeal of hindring that the year-Fruits might pass no further, they have not only brought about his Design, but have been the Cause of defending and extending it also; even as some who then opposed the *Reservation*, brought forth a contrary Effect, the *Popes* never failing to get any Abuse whatever to be Justified by Doctrines; Wherefore after this *Benedictus* the 12th, Anno 1335, under pretence of being willing to provide or furnish Livings with fitting Persons, he reserved to his own Disposall and Providing for his Life time only, all the *Benefices Vacant* in *Curia*, as had been done formerly, and also all those which became 179. Vacant

Vacant by *Privation* of those who were *Beneficiated*, or else by *Translation* unto another *Benefice*, and also all those which were *renounced* in the Court, and all the *Benefices* of *Cardinals*, of the *Court Officers*, of *Legates*, *Nuncio's*, and of other *Rectors*, and *Treasurers* of the *Roman Church-Lands*, likewise the *Benefices* of those who went to Court upon *Business*, if in going or coming they happened to die within 40 miles *Distance* of the Court, and likewise all those which became Vacant because the *Possessors* of them had received another *Benefice*. These *Reservations* Comprehended a multitude of *Benefices*, restraining much the *Power* of the *Ordinaries*, and they caused many *Benefices* to be settled upon *Forrainers*, this was received however because the *Reservation* was only for during his *Life*. Yet 'tis never to be believed that a thing useful to him that *Governs*, instituted for some short space of time, should remain *Circumscribed* thereby; For *Benedictus* the 12th being dead, *Clement* the 6th his Successor made the same *Reserve*; wherefore the *King* of *England*, *Edward* the 3d perceiving that for this Cause and by reason of *Reversions*, all the *Benefices* of the Kingdom fell unto *Forrainers*. He Commanded upon pain of *Death* that the *Popes* *Beneficial Provisions* should not be received within his Kingdom. The *Pope* wrote to the *King*, shewing sorrow for it, desiring he would forbear. The *King* answered beseeching the *Pope* to Reform the things which were a shame to the Church, and a scandal to the People: adding further that his *Predecessors* had Enriched the Churches, which by the *Provisions* and *Impositions* of *Rome* are Possessed by *Strangers* and unworthy men, contrary to the mind and intention of the *Testators*, whereby the Kingdom also became weakened, That the *Pope* ought to feed and not shear the *Sheep*, that heretofore the *Kings* gave the *Benefices*, that they have granted the *Election* unto the *Clergy*, upon the *Popes* *Petition*, and now the *Popes* will take away the *Election* introduced by them, and usurp it to themselves. Wherefore 'twill be convenient to return to the first Institution, that *Benefices* are to be conferr'd by *Princes*.

N. 180.

181.

This Contention which lasted while the *Pope* was living, was occasion that *Innocent* the 6th Successor to *Clement* revoked all his *Reservations*, by a Constitution of his, which begins: *PASTORALIS*. The same at present is not to be found, but many famous *Canonists* make mention of it, the like hath happened to many others, whereby the *Abuses*, and the *Usurpations* would be made manifest, as in like manner all things were taken out of the *Glosses*, which favour'd not the *Court*, but the *expurgatory Index's* made with the *Doctors* shew worse, besides the fitting them for his *Interests* or purposes before they were exposed to the *Press*.

182.

But few years after they were restored again, wherefore *Edward* An. 1373, sent an *Ambassador* to *Gregory* the 11th, at *Avignon*, making Instance that the *Reservations* should be quite annull'd. The *Business* was taken in hand, which lasted two years, at last in the year 1375, the *Pope* Annull'd them totally.

But he being dead, the beginning of the great *Schism* happened in the year 1378, by which there being two *Popes*, there were also two *Roman Courts*, and the *Expences* or *Charges* were Duplicated, and those also were much greater than Ordinary, through the necessities of spending which the *Popes* had for the *Persecuting* of one another, and for the defending themselves against one another, whereby each of them set

set on foot all the wayes imaginable for the raising of Money, and *Simony* was most manifest in each of the Courts, *Benefices* being freely sold, and they took all they could out of the Hands of the *Ordinaries*.

The *Roman Court* had not openly discovered it self until this time, for they aimed at nothing else but at *Money*, of all their undertakings the Cause was rendred with some appearance or shew of providing better for the Churches than the *Ordinaries* did, or else of providing some deserving Person with a *Benefice*. But *Urban* the 6th declared himself why 'twas introduced into *Benefices* with Ordaining, that the *Impetration* should be Invalid, if mention were not made of the value of the *Benefice*. Heretofore the *Benefice* was chiefly given for Spiritual things, the Temporals became Accessories, then of the Spirituals there was no mention made, the Charge or Office was not Considered, but the Emolument.

N. 183.

The same Institution lasted also unto our dayes, and Authority being given to *Nuncios*, to Confer some of the lesser *Benefices*, by the value of the Incomes it is determined which are the great, and which are the little ones : And in the *Reservation* of *Monasteries* there is no care of the Spiritual, those are Reserved which exceed the value of 200 *Crowns*, and the inferior ones left free. This serves to the end, the Chamber may receive the *Annata* or *Fruits* more exactly, for if two men impetrate one *Benefice*, and one of them expresses the value to be greater than the other, the *Bulls* or *Papal Breives* of him that exprest the less, will be in vain, and those of the greater will be attained.

Some say this is an exposing it to a sale or out-cry, and giving to whom bids most, others say it is to the end the Chamber may not be defrauded of its Right, but this Consideration belongs to the Chapter of *First-Fruits*.

184.

Coming back to the time of the Schism, no man denies but the Disorders in the *Roman Courts* were great, which encreased also the more, because some Kingdoms and Provinces, Scandalized at such various and different Methods, they reduced themselves to acknowledge neither of the two *Popes*, whereupon it behooved them to raise and receive from those which remained, as much as from all.

Germany refused to remain Subject to the *Reservations* and *Expectancies* or *Reversions*, and the *Ordinaries* Confer'd *Benefices* without any Regard to the Ordinances of *Rome*. On the Contrary *Innocent* the 7th for this Cause in the year 1359, sent a *Legate* into *Germany*, to give new *Bulls* or *Papal Letters* to those who were gotten in by the *Episcopal Collation*, paying them for them, and to cause them to make Composition for the *Fruits* received, leaving some part unto the Chamber, but by this means much Money being like to go out of *Germany*, the *Emperor Charles* the 4th opposed it, and Prohibited the Extraction, saying, 'twas requisite to Reform the *Customs* of the *Clergy*, not the *Purses*. All these Confusions encreased more and more when there came on the third *Pope* in the year 1409, to whom although the *French* did adhere, and yielded Obedience, nevertheless they stuck close to one of the *Kings Edicts* made 3 years before, by which they Prohibited the *Reservations*, the *first-Fruits*, and other exactions of the Court, until that by a Lawful general Council might be provided for.

185.

The King was not very Capable of the Government, but *Lewis Duke of Orleans* who Governed him, was Author of all the Edicts, wherefore he being *Kill'd* 'twas easie for *Pope John* the 23^d to regain Authority for Conferring *Benefices* in *France*, giving to the *King*, to the *Queen*, to the *Dolphin*, and to the House of *Burgundy*, the nomination of most of their Servants, and then prevailing with the Remainder, preserv'd it until the Death of that King, wherefore *Charles* the 7th his Son who N. 186. Succeeded him, renew'd the *Edicts*.

In *Italy* also there were made several Provisions by divers States in different manners, all which tended to take away the Abuses. *Baldus* testifies that as much as the *Bologneses* made Beneficial Provisions, and Particularly Ordained that they should not be Conferr'd, saving only upon the Natives of that City, and of the Country belonging to it, neither were the Popes much esteemed by them, for *John* the 23^d being in *Florence* with his Court, a certain disorder arose about the Collation of a *Benefice*, for which that Common-wealth deprived him of the Power of Conferring *Benefices* in their State for five years.

New tricks
and devices
found out.

187.

In these times were invented inextricable Clauses to be put into *Bulls*, as making a difference between Petitions Signed by *Concessum*, and those which are Signed by *Fiat*, between the dispatches with the Clause *Motu Proprio* with others, and the Clause *Anteferri*, which makes the better Conditions, from which Invention several *Bulls* were Obtained upon the said *Benefice*, and besides the more Fruits paid, there arose Law-suits also, which were to be handled at *Rome*, with the Benefit of the Court. There was added, the Constituting of another Antagonist at Law, if he dyed, that the end of him might not be the end of the Law-suit, but by his Death there was taken or received another years Revenue, and the Continuation of the Law-suit, which Multiplying also, the Clauses were invented, *Si alteri* : *Si neutri* : *Si nulli* : Whereby the *Benefice* was given to a third man also, but only during the Law-suit or Contest of the two first, which Constrained Princes, for the Removing of Confusions, Disorders, and Contentions amongst their Subjects, to bring back to the Secular Bar, or Court, the Cognizance of the *Possessorio* of the *Benefices*, a thing, which although Legitimate, had been by the Connivance of Princes taken away from the Secular Magistrates, and Assumed by the Ecclesiastical Court.

188.

From the Provisions which were made by some Princes to stop the new Introductions into matters Beneficial within their Dominions, the Court took occasion to invent others, as well to work the same Effects under other Pretexes, as to Multiply methods whereby they might do, and therewith supply what they could not do, where Provision was made.

Resignations.

In these times *Resignations* were found out, not good and Commendable ones, for they are very Antient, but certain others, which the World at present Commends not.

It was never Lawful for him, who was put into an Ecclesiastical Charge, to leave it of his own Authority, and it was very agreeable that he who had dedicated himself to a Ministry, and had received the Reward for it, which was the *Benefice*, should persevere Administring, nevertheless for some Lawful Causes it might happen to be necessary, or at least for the Publick, or for the Private good, that some one might devest himself of it, 'twas introduced for a Custom that it might be, and with the Authority of the Superior for some Lawful Cause, he may renounce,

renounce; and the Causes wherein 'twas practized were, if through Infirmary of mind or of Body, or became incapable by old Age, or if by enmity of Potent Persons on the place, he could not make his Residency without Danger. When the *Renunciation* was received by the Bishop, the *Benefice* was esteemed as *Vacant*, and he to whom the Collation belonged'd Confer'd it in the same manner, as if it had been *Vacant* by Death. The *Renunciat* was introduced in these times, not for any urgent Cause, but only to bring to pass that the *Benefice* might be Confer'd upon one nominated by the *Renunciator*, and as unto a new thing, it behooved also to give it a new Name, calling it *Resignatio ad favorem*, because it was only made to favour the Resignation, that he might have the *Benefice*, 'tis indeed at the Superiors Liberty, to receive the *Renunciation* or not, but he cannot receive it, but by giving the *Benefice* to the Person Nominated.

Although this was a way for introducing Hereditary Succession unto *Benefices*, and therefore Dammageable unto the Ecclesiastical Order, it proved more profitable to the Court, by how much the more frequently the *Benefice* was Confer'd, and by it the *first-Fruits* Receiv'd. Covetousness and other Worldly Affections taught many to crave for, and to receive *Benefices*, not with a mind to continue in them, but with thoughts of enjoying them until they could obtain better, or else until some design of Marriage, or other kind of Life were brought about, or else until some Youth might come of Age, at which he might afterwards renounce, a thing which by Pious men was never excused, and 'tis held for a Common Opinion, that whosoever receives a *Benefice* with a design of Renouncing it, cannot with a good Conscience receive the Fruits, which some of a larger Conscience, they do not mean so generally of all, but of those only who do it with an intent to forsake the Clerical Order.

As for *Renouncings ad Favorem*, which became Emoluments to the Receiver, the Court that the Fruit might be all its own, Prohibited the Bishops from receiving such Renouncings, and reserved that the Pope of Rome only was able to do it.

And because many *Beneficed* men when they felt themselves near unto Death, made themselves a Successor by such a way, 'twas Ordained by a Rule of *Chancery*, that the Renouncing made in favour of another, by a sick *Beneficed* man should not be of value, unless the Renouncer Survived twenty dayes after Consent granted.

In these times the Fountain of the Oblations of the Faithful, seemed to be drained or lessened already while the *War* of the *Holy Land* lasted, and afterwards for some years, whilst there was hopes that it might be renew'd, through which means much Gold came unto the Ecclesiastical Order, but all hopes being lost, the Oblations were stopt: Nevertheless Example was taken by this work, and the giving *Indulgences*, *Remissions*, and *Concessions* introduced for those who would lay hold on, and Contribute thereunto by some good and Pious work, for daily there were new works Instituted for each City, for which *Indulgence* was granted from Rome; this brought forth much Fruit to the Clerical Order, and to the Court which did partake of it, and this went so far that in the year 1517, there sprang up in Germany the Novelty which every one knows. Pope Pius the 5th Provided for our Age by a Constitution, whereby he Annul'd all the *Indulgences* granted by the Clause of *Helping-hands*, that is, with Obligation to offer Money,

N. 189.

190.

191.

192.

a thing which hath not yet stopt the Course of this Harvest.

For although *Indulgences* are now given without that Condition, nevertheless in Churches are set forth Chests, and Trunks, and the People believe no Pardon to be Obtained, unless they Offer.

N. 193. But returning to these years of the Schism, for what Concerns the gaining or acquiring of new Incomes, and settled Estates for the Churches, the hope seem'd to be quite lost. The *Monks* already had no more Credit of Holyness, the Fervency of the Sacred Militia not only Luke-warm, but Extinct. The *Fryars Mendicants*, (for all were instituted after the year 1200) had therefore Credit, because they had totally divested themselves of the Power of Purchasing Estates, and made a vow to live upon Oblations only, and Alms; whereby it appeared that the Augmentation of settled Estates would Cease, but a good way was found out, which was the granting to the *Mendicant Fryars* by a Priviledge from the Apostolick See, to be able to purchase Estates, which by Vow and by Institution was Forbidden them, many of their devout Persons were most ready to Enrich them, there wanted nothing but the manner how, this found out, immediately the *Convents* of *Mendicants* in *Italy*, *Spain*, and other Kingdoms were become very Commodious in Estates within a short time. *France* only Opposed this Novelty, saying, that as they were come into the Kingdom with those Institutions of Poverty, it behooved they should persevere in the same, neither would they suffer them hitherto to purchase, whereas in some other places their Acquisitions have been very Notable, chiefly in the times of the Schism, when all the Remainder of the Clerical Order were in small Credit.

194.

The Schism of the Council of *Constance* was raised, one of the *Popes* having renounced, and the other two being deprived, and *Martin* the 5th was Elected in Council, Anno. 1417, all were in hopes, that by the Council, and by the Pope all these disorders in Beneficial matters would be Regulated, and indeed the Council proposed to the Pope the Articles for Reforming the *Reservations*, the *first-Fruits*, the *Favours*, the *Expectancies*, or *Reversions*, the *Commendings* and the *Collationings*, but the new Pope and the Court desiring to return home, and all the Fathers of the Council being weary of the long Absence from their Houses, the treating of a matter so difficult which required so much time, was easily put off till the next Council, which was intimated to be Celebrated in *Pavia* five years after, which moved the *French* to be unwilling to expect a new Council, wherefore 'twas ordered by a Decree of the Parliament, that no Obedience should be yielded to the Pope, unless the Kings Edict were first Intimated and accepted by him, which Edict took away the *Reservations*, and the Exactions of Money, therefore 195. *Martin* having sent a *Nuncio* to give the King an Account of his Election, the King answered, he would have accepted it upon Condition that Elective *Benefices* were Conferr'd by Election, and the *Reservations* and the *Reversions* were taken away.

The Pope was Content for that time, but in the year 1422, having gained the favour of some of the University, he endeavoured to cause the *Reservations* to be received, however he could not obtain his intent, and they proceeded against his Promoters by Imprisonment. The Pope laid the *Interdiction* at *Lions*, and the Parliament Ordered it should not be served, and the Contention lasted until the year 1424, when the King

King Compounded with the *Pope*, that his Holyness should have the *Collations* until that time for Lawful, and for the future all Commands should be received; But the Attorney and the Advocate General with many of the Lords Opposed the Execution of it, and having Represented to the King the dammage of the Kingdom, they made this Agreement with the King, to vanish into Smoak.

In this Interval the Council of *Ravia* was held, which after begun, N. 196. was transferr'd to *Siena*, and dispatch'd with great Celerity, nothing of moment being Treated therein, but only hope given that in the Council to be Celebrated seven years after at *Basel*, all should be Reformed. At the end of which seven years *Martin* dyed, and *Eugenius* the 4th Succeeded in the Popedom, under whom in the Council of *Basel* Anno. 1431, the so much necessary and desired Provision was made against disorders in matters of *Benefices*; the *Reservations* were Prohibited except the *Vacanti in Curia*, the *Reversions*, the *first-Fruits*, and all other *Exactions* of the Court were also Prohibited.

The *Pope* seeing his Power restrained, and his Wealth not able to Support, he Opposed the Council, he endeavour'd to transfer it elsewhere, to a place where he might manage the Prelates, which being repugnant to them, he could not Succeed, and many Contentions past between the *Pope* and the Council, wherein Pious men Interposing themselves by daily Labour, found out a Medium, but at last being fully resolved to provide against Extorsions of Money, and the *Pope* to preserve his Authority, and Conveniency, they came to an irreconcilable Breach. The *Pope* Annul'd the Council, the Council deprived the *Pope*, and chose another, whereupon a Schism grew in the Church. That Council was accepted in *France* and in *Germany*, and in the year 1438, 197. there was Published in *France* that Famous *Pragmatica*, whereby the *Elections* were restored to the Chapters, and the *Collations* to the Ordinaries, and *Reservations* were forbidden as in the Council of *Basel*. That Council was not received in *Italy*, where all adhered to the *Pope*, so that *Reservations* took footing, and every *Pope* renew'd them without difficulty, and Introduced new Grievances besides in the Collation of *Benefices*, none of them ever moderating himself, unless when a Method was found to work the same Effect by an easier way: *Julius* the 2d. and *Leo* the 10th introduced *Mental Reservations*, which they so called, and by another name, *Reservations in the Breast*, which were not made publick like the rest, neither were they known, unless when a *Benefice* became Vacant, if the Ordinary Conferr'd it, or if any one went to crave it, the *Datary* answered, that the *Pope* had reserved it in his mind, a method or fashion which lasted some years, but then 'twas left off, because it became incommodious to the Court of *Rome* also. All other methods were carryed on to excess, for as touching *Resignations in Favorem* introduced heretofore, and practized, there was added the Resigning the Title only of the *Benefice*, reserving to himself all the Fruits thereof, which in existence was nothing else, but remaining Patron of the *Benefice* just as before it was renounced, he Constituting to himself a Successor, who was in Name *Titular*, before the Death of the Renouncer, but in Fact he had no Right, and that the new *Titular* Person (who having a mind to gather the Fruits for the behoof of the Renouncer) might not make himself Master of any thing, there was added also, that not only all the Fruits were Reserved to the Renouncer, but also that he might exact them by his own Authority. 198. 199.

There was nothing which might make the *Resignator* different from the entire Patron, but that if in Case the *Titular* dyed before him, all the Fruits of the *Benefice* remained to him, but he could no more create himself a Successor, and the Title might be given by the Collator to whom he pleased that should Succeed after the Renouncers Death.

Regrefs. The Court wanted not for an Excellent Remedy for this likewise, which was the *Regrefs*.

N. 200. In the Primitive times of the Church there was a Holy and a Commendable Custom, that when a man was appointed to a Church, *he never left his Charge in all his Life*, for to have a *Benefice* of greater Income or of greater Honour; it seemed enough for every one to perform the best of his Office; sometimes for necessity, when there was not a fit Person for a great Charge, the Superior took one who was Occupied in a Less, and by Obedience transferr'd him to the Greater, a thing which afterwards was sought after by some, either for greater Commodiousness or for Profit, whereby the Translation which was unusual, became most Customary, and the Solicitation of every one was such, to raise his Degree, that oftentimes having left that in Possession, and impetrated for another, his Impetration proving vitious, he has been deprived of both, which being inconvenient, Custom obtained, that if the Impetration of the second place could not take Effect, the Person *Beneficed* might return to the first without more ado, and this was called the *Regrefs*.

Regrefs. In like manner to this there was invented the granting a *Faculty* to the *Resignant*, that when-ever the *Resignatory* should dye or Renounce the Title, he might without more ado return to the Resigned *Benefice*, and by his own Authority take Possession anew, and make it his own as if he had never renounced it; and if he should not have taken to himself the first Possession of the Renouncement (in which case the 201. *Regrefs* cannot take place) he may by Access, and by Ingress take Possession likewise by his own Authority, without any other Ministry of the Judge, and this is called a *Regrefs*. Therefore the receiving and the admitting the Renouncements upon these Conditions, and therewith to give Title to the *Resignatory*, hath never been permitted by the *Pope of Rome* to others, but hath reserved it to himself only. This Method was Condemned by all the Writers, chiefly by the *University of France*, and Prohibited by the Parliament, neither could it be covered with any fair Pretext of Antiquity, wherefore there were some who made a Conscience and were ashamed to use it, for whose satisfaction there was found out another of an Antient Original, but according to Custom fitted for the present Occasions.

Coadjutors. This was the *Coadjutory*, a most Antient and a most Commendable Custom there was in the Churches, that when any Minister, or Prelate, or other became unable or less fit to perform his Charge through old Age, or by Infirmary of Mind or of Body, or for other Cause he 202. took to himself, or the Superior gave him an Assistant, who together with him might bear the Burden, but he had nothing to do with the Office or *Benefice*, but whilst he lived, whose *Coadjutor* he was, who being Dead, a new *Titular* one was made.

This Provision was always Commended, and never was any Opposition made against it.

After-

Afterwards 'twas Considered, that if it were Ordered, that the *Coadjutor* might Succeed, a greater Benefit would arise; First he would be more diligent in managing a thing which was to be his own, others would love him, and would repute him more as their own, than another; upon which the *Coadjutor* was made with a Succession to come, a thing which had Defenders and Opposers. 'Twas Opposed by saying, that every Succession in Ecclesiastical *Benefices* is Condemnable, it offers Occasion of procuring or desiring another mans Death.

'Twas defended with the Famous Example of St. *Augustin*, who by *Valerius* his Predecessor was made *Coadjutor* with future Succession, which Example serves not very well, because St. *Augustin* himself blames N. 203: it afterwards, and would not follow it, and was not ashamed to say that it was done by him and by his Predecessor out of Ignorance. But in the times we speak of, they not only gave *Coadjutors* with future Succession, unto Prelates, and to others which have Administration, but also in single *Benefices*, where is no need of being Assisted, so that the *Coadjutor* retains only the Name, there being nothing Real, but the future Succession, which is a thing so abhorred by the *Canons*.

'Twas practized or used in these times, that whatsoever Beneficiary who would make himself a Successor indifferently according to his different pleasure, or make a *Coadjutor* with a future Succession, or resign in his favour reserving to himself the Fruits, and with *Regress*, but yet this was Reserved to the Pope only, and in no wise granted to other *Collators*.

The Council of *Basle* was received in *Germany* by some, and by others not, and therefore *Beneficial* Causes were differently understood. To provide against the Diversities and Dissentions 'twas agreed in the year 1448 between *Nicolas* the 5th, and *Frederick* the Emperor in this manner, that *Benefices Vacant in Curia* should be reserved to the Pope, and for the Remainder of the Elective *Benefices*, they should proceed by Election; As for others, those *Vacant in six Months* should be the Popes, in the other six they should be distributed by the Ordinary *Collators*, adding also that if the Pope had not in the term of three Months Confer'd those which belonged to him, the *Collation* should devolve to the *Ordinaries*. The Agreement was received throughout all *Germany*, and until the year 1518, some *Diocesses* observed the Council of *Basle*, which annull'd all *Reservations*. But in Progress of time, those also who received the Agreement at the beginning, forbore to observe it afterwards, and excused themselves, saying, that the Agreement was not generally received, and hath lost its force through disuse, so that (we treat not of those Cities where the *Bishops* and *Chapters* are departed from the *Roman Church*) but also in the Churches which remain under Obedience, little or nothing was observed. 204.

Clement the 7th, in the year 1534 made a severe *Bull*, but it took but little Effect. In the year 1576 *Gregory* the 8th made another without better Success. In the Diet at *Ratisbone* Anno. 1594, *Cardinal Madrutius* a Legate of Pope *Clement* the 8th, made a great Querimony about this in the name of the Pope, no Fruit appeared. At present there remains the same variety and Confusion; The *Roman Court* hath but two Remedies only, one by the means of the *Confessions* of *Jesuits*, which work by terms of Conscience, that *Beneficiaries* provided by *Ordinaries*, are Content to take the *Bulls* from *Rome*, and some do it; 205.
1576.
the

N. 206. the other Remedy used by the Court but in Benefices of Importance and with Persons partly depending on them, is, that an Election or a Collation being made contrary to the Agreement, the Court annuls it, but afterwards Confer's it on the same Person, a Remedy much used heretofore upon other occasions also, not because it helps at that very time, but because keeping those Writings, they make use of them in Succeeding times, to shew that they had Obedience; as so many other Decretals which took no Effect, are nevertheless in the Decretal Books for the same design.

In France the Pragmatica was rigidly contested by Pius the 2d, which the French Clergy and the University of Paris opposed Constantly, wherefore the Pope turned himself unto Lewis the 11th, shewing him how it was unseemly to him, that in his Kingdom they should observe the Decrees of the Council of Basel, against which he being the Royal first born, departed from the Father out of distast, went with Arms, received Moneys from Pope Eugenius the 4th to disturb the Council; for which Reasons King Lewis Anno. 1461, Revoked the Pragmatica and made it to cease, but there following a Reclamation of the University, and Remonstrances from the Parliament, which are yet to be found, wherein they represented to the King, the grievances of the Kingdom, and of the Ecclesiastical Order, with an Account made up distinctly, that in three years, four Millions were gone to Rome for Beneficial Causes. Three years after the Pragmatica was restored by the same King. Sixtus the 4th then opposed him, and made an Agreement to destroy it, which is still to be found, but they would not receive it, and the Pragmatica remained. Innocent the 8th, Alexander the 6th and Julius the 2d used all means to Abolish it, but could never Obtain it; Finally Leo the 10th made an Agreement with King Francis the First, by which the Pragmatica was taken away, and 'twas Ordered that the Power of Choosing Bishops and Abbots should be quite taken away from the Chapters of Cathedral Churches, and from the Conventuals, but Bishopricks and Abbeyes becoming Vacant, the King might name a fit Person, on whom the Pope was to Confer the Benefice.

Pragmatick
Sanction re-
voked.

207.
And restored.

And taken a-
way again.

That the Pope of Rome could not give Reversions, nor make general or special Reservations, but that Benefices becoming Vacant in four Months of the year, should be Conferr'd by the Ordinaries on the Graduates of the Universities, and the Vacants in the other eight Months, might be freely Conferr'd by the said Ordinaries, only that every Pope in his life time may Charge any Collator of Benefices to Confer one according to the disposal of his Holyness, in case there are to be Conferr'd between Ten, and Fifty, and if there be above Fifty or more he may Confer two; and although there were many Difficulties in Accepting the Agreement, and the University appealed to the next Lawful Council, nevertheless the Authority and the Utility of King Francis overcame, and the Agreement was Proclaimed in France, and put in Execution. In such manner that after so many Popes from the year 1076 unto 1150, strove by the Excommunicating an infinite number of Persons, and by the Death of Innumerable more to take from Princes the Conferring of Bishopricks, and giving the Election to the Chapters; contrary-wise Pius the 2d with five of his Successors have striven to take the Election from the Chapters of France, and give it to the King, and Leo the 10th did obtain it at last; Thus the Alteration of Interests bear along with it the Change and Contrariety of Doctrine.

208.

209.

Some

Some *Speculative men* have accounted the Reason of this to be, because the Example that the Bishop and the Clergy might Confer, may keep alive the Practice, and the most general Doctrine of the Church, Contrary to the Modern; others because it is still more easie to take it out of the hands of a *King*, who may be of a *weak Spirit*, or may stand in need of the *Pope*, than from the Bishops and Clergy.

King Francis made many Laws besides to regulate the Possessory of *Benefices*, and the Agreement was observed by him, but the Execution was interrupted for some years by his Son *Henry* the 2^d, when he was in War with *Pope Julius* the 3^d, because of *Parma*; wherefore in the year 1550, the King Prohibited that any Provision of the *Popes* *Benefices* should be received, and Commanded that all should be conferr'd by the Ordinaries; but Peace being made, all was Compos'd, and the Observance of the Agreement returned.

But in the year 1560, the *States* were held at *Orleans* in *Charles* the 9th's *Minority*, where the Collations of *Benefices* were regulated, and many things abolish'd which were Contained in the Agreement. Great Confusions and Wars happened in the Kingdom, and the *Cardinal* of *Ferrara* was sent *Legate* into *France*, who Obtained that the *Ordinances* of *Orleans* should be superseded, with a Promise that the *Pope* within a short time should provide against the Abuses, for which the *Ordinances* were made, of which nothing was done afterwards, so that now the *Concordate* remains; Thus went the Affairs in *Germany* and in *France*. N. 210.

But the *State of Italy* which we have lately described, was greatly altered by the Celebration of the *Council* of *Trent*, which made several Decrees on this Matter, to provide against the Abuses abovesaid then reigning, and although from its beginning, which was in the year 1547, it began to attend these Corrections, and made many Decrees which were not put in Execution until after the end of it, which was *Anno*. 1563, wherefore it may be said, that all the Provisions are to be referr'd unto this time. 'Twas the Intent of this Council to remedy three things; First the *Plurality* of *Benefices*; Secondly, *Hereditary Succession*; Thirdly, the *Absence* of *Beneficiated* men, and to Prohibit all kind of *Plurality*, 'twas Ordained that one, although he were a *Cardinal*, could not have more than *one* *Benefice*, but if that were so small that it might not serve or be sufficient for the Expences of the *Beneficiated*, he might have one more, which was therefore to be *without Cure of Souls*: It Prohibited the *Commendums* of *Benefices*, *Curati ad Vitam*, which was a Pretence to make a man Obtain two; it Ordained also that *Monasteries* for the future should not be *Commended*, and those that were so till then, when they became Vacant should be reduced into a Title; It Prohibited also the *Unions ad Vitam* which was another pretext of giving divers *Benefices* under the name of one; It Prohibited totally the *Regresses*, and the *Accesses* to take away *Succession*; It Prohibited also the *Coadjutorships* with *future Succession*, absolutely, excepting in *Cathedrals*, and *Monasteries*, wherein was Admonish'd, that they should not be granted by the *Pope* but for just Causes, but the Prohibition is without Effect.

In the 14 last moneths *Residency* was treated with some Contention; because there was sprung up a Question among the Doctors a little before, whether the *Residency* of Bishops and of other Curates in their Churches were *de Jure Divino*, or Canonick, for which cause the Council was divided Residency.

211.

1 Pluralities
2 Hereditary
Succession.
3 Absence.

212.

divided in such a manner, that in *April Anno 1562.* a Scrutiny being made of the number of both Parties, there 67 found whose Opinion 'twas *de Jure Divino*, 33, who opinion'd it to be *de Jure Positivo*, and 30, who were of Opinion that this Point ought not to be decided without first treating with the *Pope*. Of the first number were the Northern men and other cast-off Bishops, on the Second and the third the Dependents on the Court. If Residency should have been made *de Jure Divino*, it would follow that the *Pope* could not have been able to dispence it, but that the Authority of the Bishop also would have been *de Jure Divino*, and no man was able to restrain it, these were things which Squinted at the Depression of the Courts Greatness, wherefore the Opinion was Maintained by both Parties with much boldness; The Business came to Practices, so that after fourteen months Residency was Commanded, yet not declared *quo Jure* the Curate should be Obligated, only Penalties were enjoyned upon *non-Residents*, as to other things, they were left in their first Estate or Condition, but those who were at the Council, and have left any works especially of Divinity, have Maintained Residency to be *de Jure Divino*, proceeding so far, that to affirm the Contrary, they esteemed it a deluding of the Holy Scripture, and natural Reason it self, and all Antiquity, but not to provoke the Court against its self, they have found out Exceptions by which the *Pope* may make us Dispensations.

Reservations.

214.

The Council spake not of Reservations chiefly, (which were encreased above measure) because they Concerned the *Popes* own Person, wherefore they still remained; yea they were Encreased afterwards. It seemed that in taking away the *Unions*, and the *Commendums ad Vitam*, the *Regresses* and the *Coadjutorships* were in a great share proceeded if not totally, yet the greatest part; however a speedy Remedy was found out which not only did the same, but much more, yea greater than the four above named, and that was the *Pension*. 'Tis an observation of Godly men, that in those times the Court would never be induced that a gainful Abuse should be Abolished or Corrected, until it had prepared a greater and a more profitable one, but in this 'tis very certain to be so; and therefore 'tis to be observed, that it is not a thing of these our times only, the laying a Pension upon Benefices, only the manner is new, and the frequency is peculiar to our times.

Pension.

215.

When the Church Goods were in Common, the name was unheard of, after the Rule or Canon practiz'd by all was made, that *Benefices* should be Conferr'd intirely and without Diminution.

After that the Clergy among themselves gave a beginning of going to Law with them, when the Cause was doubtful, one side yielding up his Rights, if a part of the Incomes was granted him with the name of a *Pension*: Likewise if two Beneficiaries for some good Respect with Authority of the Superior should interchange Benefices, if the Incomes were not equal, they patch'd up that with a Pension, which the Richest left.

Pensions.

Afterwards also when any one Resigned with Licence of the Prelate, a *Pension* was left him, on which he might live. There are *Popes Decretals* of these three sorts of Pensions, which were about the year 1200. And these sorts the *French* admit of also by Jurisdctions, refusing to admit of the others, which are those that are given only to afford a livelihood to one, to another because he is well-deserving from the Apostolick See, to another because he is Learned, or because he is
of

of a gentile Behaviour, or because he hath served the Church or the Prelate, also because he hath the *Popes* favour only; Also to a Youth, because his *Genius presages a good event or Success*; All these are just Causes say the Canonists, why Pensions may be given, and they have no Regard to add, that without any Cause the *Pope* may give a Pension upon any Benefice, to any Person he shall think fit, and he that receives likewise without any Cause, but out of the *Popes* good Will only, with a safe Conscience. Now therefore instead that two Cured Benefices were held, one in *Title*, the other in *Commendum*, were *United ad Vitam*, and the Party Beneficed was forced to allow a stipend to him that served in one of them, at present 'tis given to him in *Title*, and to himself for a Pension the same which he takes, and it turns to the same, yea to his greater Advantage, because he was Subject to give Account of the Errors which his Substitute had Committed, and there was some necessity for his taking care of it, but thus nothing lyes upon him, and the Profit is the same.

N. 216.

In the like manner he that made a *Coadjutor*, or renounced with a *Regress*, ought to take some Care of the Benefice of which he had a share, and the which might become all his own, but renouncing, with reserving a Pension to himself, he remains free from all Care and thoughts, and if the *Resignatory* dyes or yields up, it concerns him not, he hath his Pension free, and without Molestation.

217.

Moreover 'tis more Profitable to have a *Pension*, than a *Benefice*; first many *Benefices* require Holy Orders, and the Age of being able to receive them, as for the *Pension*, the first shaving is sufficient, and sometimes the Age of seven years. Besides *Pensions* are given to Laymen also, as Commonly to the *Knights of St. Peter*, Instituted by *Leo* the 10th, and to those of *St. Paul* Instituted by *Paul* the 3d, and to the *Pious* Knights, Instituted by *Pius* the 4th, and to those of *Loreto*, Instituted by *Sixtus* the 5th, which may have, some 150, some 200 Crowns Pension, and to whomsoever the *Pope* pleaseth; Again of *Benefices*, in the times when he that held more than one, there was alwayes some fault found with him, or they had a saying to him, and a Dispensation was necessary, which caused some Expences, notwithstanding this, the Doctors put it in doubt, whether a man Secured himself in Conscience, or no. *Pensions* may be had to any number without Scruple, and there is no *Pension Incompatible*. A *Pension* may be given with Authority, to transfer it to another according to ones own Will and Pleasure, a thing which cannot be in *Benefices* without passing through the Bounds, and through the Ceremonies of Renouncing, and Renouncings were invalid, unless the *Resignatory* survived twenty dayes, but the *Pension* might be transferr'd also at the Point of Death.

218.

That which chiefly Imports is, that the *Pension* may be *Extinguished*, which in *Italian* signifies to make a Sum of Money of it, for every Contract made about a *Benefice*, is accounted as *Simony*.

To *extinguish a Pension*, signifies nothing else, but to receive a quantity of Money, to free the *Beneficiary* from paying the *Pension*, which quantity is Taxed by Agreement, according to the greater or to the lesser Age of the *Pensionary*.

Formerly before our Age, there was no way to make ready Money of a *Benefice*, that would have been with an Infinite Offence before God, and before men; now 'tis done Lawfully. I have a *Benefice* of 200 Crowns. I renounce it unto *Antony*, reserving to my self a *Pension* of

219.

100,

100 which I extinguish as soon as 700 are received, that is, I renounce it, and so have made of my *Benefice* 700 Crowns ready Money without sin. Some are so little Penetrating, that this circling about, seems to them to be the same, as if I should sell my *Benefice* for 700 Crowns, but they shew a gross Judgment. There are many other things wherein the *Pension* is much more Commodious, as is used at present in *Unions*, in *Commendums*, in *Coadjutorships*, and in *Regresses*.

N.220.

Some Magnifying the Commodiousness of making Money, which the Pope hath for the necessities of the *Apostolick See*, do say that if he should open the *Regresses*, he might raise as much as he would, and they shew they understand not matter of *Benefices*, there would not be a Farthing gotten by this; The *Pension* is much more useful and Commodious, wherefore 'twas easie to execute the Council, because it became Convenient likewise; but the raising *Monasteries* with *Commendums* which the Council Commanded in like manner, hath not been put in Execution hitherto, but many which were in Title have been Commended anew, there being no way found out to do it Commodiously.

The *Pension* cannot be Imposed by any, but by the Pope only, a thing of a great Emolument to the Court of *Rome*.

This Alteration hath *Italy* made for the Council of *Trent*, which having not Treated of *Reservations*, and those being also encreased, and are every day encreasing, there remain^s of the *Benefices* in *Italy* at the Popes Disposall, with good hopes that the Sixth which remains may be to Compleat the Whole.

221.

By the Rules of *Chancery* all the *Benefices* are Reserved to the Pope, which *John* the 22^d and *Benedict* the 12th reserved to themselves, and afterwards all those Obtained by any Person being an Officer of the Court, although it were after he was gone out of Office. All the *Patriarchies*, *Arch-Bishopricks*, *Bishopricks* and *Monasteries* of men are also reserved, which exceed the value of 200 Gold *Florins*, and also all *Benefices* belonging to the Collation of whomsoever, and becoming Vacant by the *Cession*, by *Privation*, or by the Death of the *Collator*, until that the Successor shall have taken quiet Possession: Also the Chiefest Dignities after the *Pontifical* in *Cathedral Churches*, and the Principal Dignities in *Collegiate Churches*, *Priories*, *Prepositures*, and other *Conventual Dignities*, the *Preceptories* of all the *Orders*, excepting *Military*, the *Benefices* of all the Popes Familiar Acquaintance, and of every Cardinals, although they be no more in their Service, or because they be gone away, or because the Cardinal is Dead, also all the *Benefices* of the *Collectors* and *Sub-Collectors*, all the *Benefices* of the *Roman* Courtiers, which dye in a Journey when the Court Travels, all the *Benefices* of *Chamberlaing* and *Curiosi*, besides all these *Benefices* which Comprehend all the Chiefest, and a great part of the rest, the Pope Reserves to himself all *Benefices* of any kind whatever, which become Vacant in eight Months of the year, leaving only four Months unto others, and this as touching other *Benefices* not above named.

222.

Besides these, there are reserved also by a Constitution of *Pope Pius* the 5th, all the *Benefices* becoming Vacant for Cause of *Herefie*, or for Confidence, and all those which shall not be Conferri'd according to the Decree of the Council of *Trent*; He that shall put together all these *Reservations*, will find that at the least $\frac{5}{6}$ *ths* are the Popes, and $\frac{1}{6}$ *th* belongs to all the other *Collators* together.

To

To give Commendations to whom they are due, the Diligence used by the Popes of Rome is not to be omitted, not to suffer that the Bishops and other Collators of Benefices should give place to any Abuse, they never permitted them the Power to *unite Benefices ad Vitam*, neither the Commendings *ad Vitam*, they have not permitted that they could dispense upon a Plurality of *Incompatibles*, nor to grant *Regreses* or *Coadjutorships* with a future *Succession*, and using the same Diligence at present, they do not give leave that a *Pension* though but small, shall be laid upon the Benefice ; In like manner they do not admit that they may receive the *Resignations ad Favorem*, but in receiving the absolute Resignations which have been used most Antiently in the Church, Pope Pius the 5th Anno. 1568, Prohibited under most grievous Penalties all Ordinaries which having received the Resignment of a Benefice, from Conferring it on any Kinsman, Relation, or familiar Acquaintance, or friend of the Resignant, Obverting, that neither by Words nor by Signes or other Shews, they should have Demonstration of another Person to whom the Resignant had a desire the Collation of the Benefice should be made.

'Tis Constantly Affirmed by all *Canonists* and *Casuits*, that every *Contract in matter of Benefice is Simoniackal*, if it be made without the Popes Participation, but with his *Intervention* every thing is *Legitimate*, holding for Constant this general Proposition, which is, that the Pope in *Beneficial matters cannot Commit Simony*, which gives no very good Edification to the World, yet the most Modest *Canonists* do limit it, distinguishing some kind of *Simony* to be forbidden by Divine Law, and another by the Law of man, adding that the Pope only is exempt from Committing *Simony* forbidden by Humane Law : But notwithstanding this, they stumble upon the same Difficulties, because that which is not evil by its own Nature, nor forbidden by God, deserves not this name, and it is superfluous to make a Humane Law not to observe it, and he that shall look into it, and not make himself a Pretext with Words, shall see, that all is forbidden by God, and certainly it cannot be said, that in this Part of holding the other Bishops in Office, the Pope should have failed, and it hath been a very great Grace of God shewn to the Popes, that they have been able to keep the Remainder of the Church sincere from *Simony*, and yet they have not been able to extend this good to themselves, nor to their Court ; And if one day, as there is hopes, that it may come into some good Popes mind to Reform the Court, it would be a most easie thing to do it, only by receiving those Laws for himself, which are given to other Bishops ; and we might shortly expect such a Profitable Reformation, if Flattery kept it not off at a distance, by Proposing to the Popes, that they being in Possession at leastwise in Italy and in a few other places, were not Subject to any Rule, it being not good to Deprive themselves, and do that Prejudice to the Apostolick See, quite Contrary to the Doctrine Professed by the Antient Holy Popes, and Doctors. But by the things abovesaid, it is very clear, whether the Popes of Rome may have full Authority over Ecclesiastical Estates and Benefices, so as not to be subject to any Rule in the managing of them ; wherefore proceeding by Reason, if the Church of each place be Mistress of the Estates which she Possesseth, because the Dominion hath been transferr'd to her, by him who was the first Master of them, with the leave of the Prince, who by Law hath granted to her Purchasing ; it remains that the Estates ought to be under the

Government, and Administration of those who are appointed for that Charge, First according to the Disposition of the Law, and then according to the Conditions which the Donor Prescribes, and the Testator formerly Patron of it, and finally, according as the Church hath granted, who is made Mistress of it, yet not going contrary to the Disposition of those, from whom it hath Cause. And this is so Evident and Clear, that it cannot be put in Doubt, unless by one who hath not Common sense, or else, who in treating and speaking, follows not that which he is inwardly sensible of.

N. 227. The Clerks or Clergy-men are become Administrators of these Goods by Laws which have granted unto Christian Colledges, the Power of acquiring Estates, both by Wills and Donations of those who have bequeathed their Goods, and by the Authority which the Church hath given unto the said Clergy in the *Canons*; therefore they are Obligated to Govern and to Dispose these Estates according to the Laws, Dispositions, Donations, and Testamentary Dispositions, and according to the *Canons*: and that which might be done Contrary to it, cannot be called otherwise than Injustice, Injury, and Usurpation.

The *Canonists* say, that the *Pope* hath most full Power over the Goods and Benefices Ecclesiastical, so that he may conjoin them, diminish them, erect new ones, give them *ad nutum*, Confer them before they become Vacant, lay upon them Servitudes, Burdens, and *Pensions*, and generally that in Beneficial matters, the *Pope's* Will is in the stead of Reason or Right.

228. This Sufficeth not, but they add, that the *Pope* may alter or transform into other Works, the Legacies *ad Pias Causas*, and may alter the Disposition of Testators, applying that to another, which they shall have appointed for a Pious Work, and it cannot be denied that this is the Practice which hath changed all the Government and all the Antient Institutions, but it remains still in Doubt, who does amiss and errs, the Antient or the Modern, if so much as a Doubt may happen.

229. *Martin Navarr* with some of the more Moderate *Canonists*, limits this Proposition, that the *Pope* may alter the last Wills, only restraining when there is a Lawful cause of doing it, which otherwise would be to deprive a man of his own, and of the Power granted him by the Natural and by the Divine Law, coming down also to this Particular, that the *Pope* cannot without Cause give that to one Church, which is left unto another, therefore how much less unto Persons not called. *Navarrus* saith also, that the saying of the Gloss approved by the *Canonists*: That is, in Beneficial Matters, the *Pope's* Will is *instead and takes the Place of Reason*, is to be understood only in things which are *de Jure Positivo*, but not in that which cannot be done without disagreeing with Natural and Divine Law: And those who give no unlimited Power unto the *Pope*, would also exclude the *Canons* of the Universal Church, not to fall into the Absurdity, that in a Matter of such Importance the Universal Church should have erred, and done amiss, and that the Court should do uprightly. The said *Navarrus* adds further, that it being said in the *Clementines*, that the Free Disposal of Benefices belongs to the *Pope*; The word Free is or ought to be understood, *without Licence, Leave, or Consent*, and notwithstanding the Contradiction of any man soever, but yet without Prejudice of the Third; if we should admit of this Exposition, as it seems Convenient to be admitted, there would be seen a great Opposition to Reservations, because they are Prejudi-

Prejudicial to the Bishops in the giving of Benefices unto Strangers, because it is with Prejudice to those of the Country, in whose Favour the Wills are made, and it would not be very favourable to the Pretension, to have Power or to be able to alter the last Will and Testament, being Prejudicial to the Memory of the Deceased. I know well that others answer to this, that all is true, when there is no Legitimate Cause; but the Point is, who shall be Judge of the Lawfulness of the Cause, for if it belongs to himself, whose Authority is to be restrained; 'tis as good to give him the Absolute Authority, as that which is limited with a Lawful Cause, unless the Law be above it. *Navarrus* adds very Notable things, saying, that in our Age, the Opinion of the Jurisconsults which expatiate so much the *Papal* Power in *Beneficial* matters, is in much Credit to please those who are Ambitious of many Benefices, which they accept as fitted for their Ambition and Covetousness, who heard a Divine say Publickly, and a Famous *Canonist*, that they would willingly accept of all the *Benefices* of the Kingdom, if the *Pope* would Bestow them upon them, but on the Contrary *Pius Quintus* told them, that the Jurisconsults are wont to attribute more Power than Convenient to the *Pope*, whereto he answered, that there are some also which do not Extol, but that it behooveth to walk in the middle way, having Respect unto Divine and Humane Laws together, not doing like the Modern Jurisconsults, who Magnifie Humane Laws so much, that they answer against the Divine. N. 230.

However I intend not to Contradict the Opinion which gives so much Power for the Reverence due to the *Pope* of whom is treated, although it Comprehends not how it agrees with Divinity and with Reason, I shall only propose some Difficulties, which are wont to be Promoted by Writers on such an Opinion, which when they shall have resolved, truth in this matter will be most clear.

And first, If the *Pope* hath such an Ample Authority, who hath given it him? *Not Christ*; because the Authority given by him is only in Spiritual things for *loosing*, and for *binding*, that is, for remitting and for retaining of Sins. And then the Ecclesiastical Estates are Possessed *de Jure Humano*, and not *Divino*, and for such it hath been resolved above, and therefore he hath not received this Power from God, much less from the *Laws of Princes*, from Testamentary Dispositions, nor from the *Canons* of the Churches; because all these have given the Administration to the Clergy-men of each Church, over the Estates and Benefices thereof, and prescribedly also with limited Conditions, that they may not be altered, therefore he hath it not from these. There are no other Patrons in being, nor none can have Authority, unless granted by these, therefore it remains to be Considered from whence, and by what other way it hath been given him. 231.

To this Doubt a second may be added; if the *Pope* hath this Authority, what is the Cause that his Predecessors for a *Thousand years and more* have never Exercized any, nor any Antient *Doctor*, nor *Council*, nor *Historian*, nor *Father*, nor *Canon*, hath so much as made mention of it? It cannot be Attributed that there is a necessity for that now which was not in those times, because that in the Ages that past between the years 800 and 1100, for 300 years the Disorders were so great throughout all *Europe*, that in Comparison of those, these at present are Tollerable, and indeed no *Pope* did so much as intrude himself into the Estates of other Churches, which had great need of being Governed. 232.

And after the *Popes* had begun to interpose themselves in some places, until the time of *Clement* the 4th, no man ever pretended to such an Ample and Absolute Power, but the said *Clement* hath not directly published such a Power, but dealing otherwise, and almost Incidentally, a way which is not wont to make an entire Proof, because the things incidentally spoken in one way, being directly Considered and Examined, are oftentimes expressed after another way.

Neither can it be said, that this Authority serves for or tends to good, because it appears thereby, that almost all the Abuses have been Introduced. From hence proceeded the *Commendums*, the *Pensions*, the *Regresses*, the *Unions*, the *Resignations*, the *Expectancies*, the *Reservations*, the *Tearly Payments*, and the *Quindenniums*, and other kinds which no man defends, unless by excusing them with the general Corruption of the times.

N. 234.

There remains yet a third Doubt, no less Considerable in this matter, which is, that since the *Popes* have begun to make use of this so absolute Authority, the *Christian Kingdoms* have always Complained of it, and have made some Opposition against them, as is above mentioned in this History, so that the *Popes* have been necessitated to Moderate themselves. And the Moderation was not in their Condescending to forbear the exercise of their pretended Authority, but by way of Transaction practized in *dark Reasons*, making agreement with Kingdoms, and by Form of Contract, resolving unto what Terms or Bounds their Power was to extend, a thing which might not have been done in Prejudice to their Successors, if that Authority had been thus free in the Popedome.

Pragmatica
Sanctio
concorda.

235.

Pope Leo the 10th, to take away the *Pragmatica*, makes the *Concordat*, and so he himself calls it in his *Bull*: He that hath a most Ample Authority makes not a *Concord*, but Treats with his Subjects like a Superior, and by way of Concession; I offer no Violence to the word but in all the thing it self, *Leo* not only calls it a *Concordia*, but sayes also; *Illam veri contractus, & Obligationis inter nos, & Sedem Apostolicam predictam ex una, & Presatum Regem ex altera Partibus Legitime initi*. Some man may require that it be declared. The *Popedome* of *Rome* having a Difference with the *Kingdome* of *France*, the *Pope* pretending to have an absolute Authority over Benefices, to reserve them to himself, &c. And the *Kingdom* pretending, that the Authority belongs to their Prelates, they forme two Parties at Law, and to put an end to the Controversie, they make a *Lawful Contract of Obligation*, whereby they declare what ought to be the Authority of each, how can any man say, that the *Popes* Pretension was Legitimate and Clear? I cannot say that I am able to answer any of these Difficulties, if there be any Answer, I Refer it to the Judgment of the Wise; well may I say, that Observing that which for above a *Thousand years* hath been Observed, that Ecclesiastical Livings have been Administred in each Diocess, their own, by their own Ministers, all Difficulty is avoided, and if Examples ought to Instruct, they will be better and more fruitfully dispensed than now they are.

236.

In the three first Questions hath been Treated of the Stocks or Estates of the Clergy, the 4th now remains, wherein follows the Treating of the Fruits, or Rents, or Incomes thereof. The Holy Fathers who have Written before the Division of the Estates into four Parts, have all said Unanimously that the *Estates of the Clergy-men* are the
Poors,

Poors, and that the Ecclesiastical Minister hath no other Power over them, but to Govern them, and to dispense them according to the necessities of the Poor, declaring those Ministers to be not only *Thieves*, but also *Sacrilegious*, who made any other use of them besides their Institution.

All Clergy-men did not Manage the Estates, though indeed all were dispensed by them, as likewise the livelyhood was Administred to Widows, to the Poor, and to other Miserable Persons; but according to the Example of the Institution of the Holy Apostles, only the *Deacons*, *Sub-Deacons*, and other *Stewards* were appointed thereunto, and gave an Account to the *Bishop*, and in some places to the *Presbyter* or *Priest*. The Division being made, and the *Benefices* Instituted; although it would seem that the Bishop, the Priests, and the other Clergy-men might do what they would, with the Beneficial Incomes, as with their own; yet the Writers speak in this manner, saying, that a Clergy-man cannot make use of the Incomes of a Benefice, but as far as his Moderate need requires, and the overplus he is obliged to spend in Pious uses, and with much Reason, because the Division alters not the Substance of the thing, and an Estate if it comes to be Divided, both parts remain under the same Obligation. Amongst others who write after the Dividing; St. Gregory, who was a little above 100 years after, and St. Bernard, who was almost 1000 years after, exclaim most heavily against those who spend the Incomes of *Benefices* in ill uses, as against Persons Usurping the Common Stock, and Murtherers of the Poor which ought to be Maintained by them.

N. 237.

238.

Thus all the Doctors Wrote, until the year 1250, when they began to handle things more Subtily, and holding it for Constant, as spoken by all the Antients, that it was a sin to mispend that which exceeds the Moderate necessity of the Clergy-man, 'twas enquired into, that if Beneficed men not spending of that in due uses, which exceeds above their need, whether they only sin as a man sins who mispends his own, or whether also besides the sin they be Obligated unto Restitution, as ill Consumers of other mens Goods.

If they be *Patrons* of the *Fruits* of the *Benefices*, or as the Laws say, *Usufructuaries*, although they sin by ill Administration, yet they do Injustice to no man, neither are they bound to make any one amends, because they have not in Government any thing of another mans, but their own: But if they are Dispensators with Power only to receive their own needs, which the Law calls *Usuaries*, when they Dispence not uprightly, they remain under an Obligation of restoring or making good as much more as they have Consumed, much more those who receive from them by Contract *gratis*, that is, those to whom they give or leave by Testament, are Obligated to restore it, as having received it from one who was not the Master of it.

239.

Conscience obliged me to set this Doubt on foot, which having been handled or treated on these 350 years, remains still in Controversie with equal number of Authorities on each side, and at last with severe Oppositions and Apologies, 'twas in Controversie between Martin Navarr a Canonist, and a Casuist of great esteem, and one named Sarmiento: Navarr holding that the Clergy-men are not Patrons, but Dispensators, so that they not only Commit sin, but are Obligated unto Restitution. Cardinal Gaetan was of a middle Opinion, that it was a different thing between speaking of Bishops and Rich Abbots, and those

who

N. 240. who had only what was decent, or a little more, and that these having no more than their own share, are Masters of it.

But the Richest have also amongst their Incomes, the part or share of the Church and of the Poor, and therefore are Obligated to give Almes, and to do other Pious works for Righteousness-sake, that is, with Obligation of Restitution, both to them, and to him that Receives from them, descending to this Particular also, that those are Obligated to *Restitution* who receive from the *Pope, Ecclesiastical Estates*, for the Enriching, Exalting, or for the Ennobling themselves, every Donation of Church Goods, which is not grounded upon Piety, or upon Necessity being a Dissipation and an Usurpation.

I believe that without a Subtil Disputation, all the Doubts Occurrent in this Matter may be Resolved, and first, to speak Separately of those Incomes, which by Testaments, or other Original Institutions are Dedicated and Ordained to some Pious work, to which I believe them to be Obligated, that to appropriate them to ones self, or to other Worldly uses, may be called freely Usurpation of that which is another mans, and if any of the Beneficed Clergy-men forbears to Execute the Institutions which he hath in Charge, applying those Incomes to himself or to others, I do not believe he can under pretence of any Excuse or *Bull* whatever, Excuse himself from being in an equal Degree with every Executor of a Will, who should apply to himself that, which is left by the Testator, unto another, and I make account that every man who will not deceive himself, will hold this for a Constant truth.

241.

On the other side Duty requires, that he who is served, should pay the work-man his Reward, who may do with it what he pleaseth, neither can it be Doubted but the *Singing man*, the *Organist*, and others which serve in the Church, are Masters of the Reward which they have therefore. It is not Inconvenient to say, that the Priests likewise, and other Clergy-men ought to have their Reward for the Services which they afford to the Church, of which Reward they are Masters, and when a Benefice is Instituted with a particular Obligation to serve the Church in a determinate thing, as are many *Canonships, Mansionaries, Theological Prebendaries*, and such other Benefices, it is not Inconvenient to say, that it is a Reward of that Work.

242.

Benefices are of such *Antiquity*, that the *Memory* of their *Institution* is *lost*, and therefore 'tis not known, whether they had any Obligation, or no; But a Conscientious man will be well Certified, when he shall Consider the quantity of the Incomes, and the Service which he lends or yields to the Church, because if these two were weighed in the Scale, he may believe that the Benefice is his Sallary, but if the Incomes exceed it by much, he can never fain himself to be Simple, who believes that so many Incomes were left him to do what he will with, and should not know it to be necessary, that the Institution should bear with it some Obligation, it being not likely that so much should be Assigned for him only.

The Controversie amongst the Doctors which is difficult disputing in General, is most easie and without difficulty practized in particulars, and the Conscience of him who hath not Choaked it through his own Malice, resolves easly all Difficulties inwardly upon the Particular, which God hath not left unto any one in uncertainty, who is willing to walk according to his Commandments.

243.

As to the *New Acquisitions*, every prudent Person would have thought that they were at an end, or at least that they could acquire or Purchase but slowly.

There are now no more Persons who bear a Devotion towards the *Clergy-men*, *Monks*, and *Militia*; The *Mendicants* who heretofore had the Power of Purchasing, cannot hope to put it in Execution, whereas they have not been able to do it hitherto, and where they have Purchased or Gained, if therewith they have not lost the Devotion, they may yet hope for some Augmentation, but very slight: Those others who have caused themselves to be excluded from the Privilege, which the *Council of Trent* hath granted to all of Purchasing, as the *Capucins*, who preserve the good Opinion by Reason of their Poverty, whereas immediately that they should change their Institution in the least part, they could not Purchase Estates, and would lose their Alms. It seems therefore that no way is left to go any further. He that would Institute an Order with Power of Purchasing, would have no Credit; He that would do it with meer Begging cannot hope to purchase thereby, nor to have Credit if he should change it. But notwithstanding all this, there hath not wanted Proper wayes and Singular in our Age, and nothing Inferior to all the former, and that hath been the *Institution of the Jesuits*, which professing a Mixture of Poverty and of Abundance, with Poverty it gains Credit and Devotion, and hath the other hand Capable of Possessing, which receives that which the Company gains. They have Instituted *Professing Houses*, with Prohibition of being able to Possess Estates, but the *Colledges* with Power of Purchasing, and Possessing; they say, and that truly, *that no single Government in the World is perfect, but that a Mixture is useful to everything*; That the Condition of *Evangelical Poverty* taken up by the *Mendicants*, hath this Defect, that it cannot Govern it self therewith, but the foregoers, whose Number cannot be great, but they in the *Colledges* receive and Instruct Youth, and render them apt and fit after the gaining of Virtues, to live in the *Evangelical Poverty*, wherefore Poverty is indeed the Scope and their Essential end, but Accidentally they receive Possessions.

Besides all this, 'tis better to ground ones Credulity upon that which is effectually seen, than upon that which is Preached in Word, they Write unto this present time to have one and *twenty Professing Houses*, and *293 Colledges*, by the Proportion of which numbers, every one may Conclude that which is Essential, and that which is Accidental to them: Certain it is, that the Purchases made by them are exceeding great, and that they Proceed still towards Augmentation.

Even as all the Temporals which the Church Possesseth, comes from the Almes and Oblations of the Faithful, even so likewise the Building of the Antient Sanctuary in the Old Testament, was made by Almes and Oblations, then when the People had Offered as much as suffized, yet the Oblations were Continued; The Over-seers of the *Fabrick* had recourse unto *Moses*, saying, the *People carryes too much for the Work which the Lord hath Commanded*, and *Moses* sent forth a Proclamation, that no man should make any more Offering to the Sanctuary, because there had been Offered enough, and to spare.

'Tis seen that God was not willing to have Superfluity in his Temple, and if in the Old Testament which was Worldly, he would not have all for his Ministers, much less will he have it in the New: Where are these

N. 244.

Institution of
Jesuits.Professing
Houses.
Colledges.245.
Evangelical
Poverty.

246.

Pur=

Tythes. Purchasings to end? When it is to be said amongst us, the People hath Offered more of it than Suffizeth. When that the Ministers of the Temple were the 13th part of the People, they received the *Tenths*, and 'twas not Lawful to exceed them; now that they are not the 100th, they have perhaps above a quarter.

N. 247. 'Tis not Convenient, that the encrease of Ecclesiastical Estates should be infinite, and that all the World should be reduced to be Tenants; Humane Laws amongst Christians have not limited the quantity of Estates that any one Possesseth, for he that Purchaseth to day, alienates to morrow: A Perpetual Condition of Persons is very singular, which may alwayes Purchase, and never Alienate. In the Old Testament the *Tythes* were given to the *Levites*, because they were *Gods Inheritance*, and therefore they were Forbidden to have any other share, a thing which pertains to those who are willing to make use of their Priviledges, taking all to themselves, and not only that which behooves their own Profit.

It hath been abundantly spoken of, how the Ecclesiastical Estates have been gained, to whom the Care of them hath been Committed, and how Dispensed.

Nothing hath been spoken of that which was done, when at the Death of the Beneficiary they found some of the Fruits not yet disposed of, whether he disposed of them by Will, or whether from the Intestate-man they passed unto other Persons.

Conto. 248. Whilst the Estate of each Church was in Common, and Governed by one Earl only, 'tis a certain thing, that so much as was found in a Ministers hand was *Incorporated with the Whole*, and Governed in the same manner by the Successor; But Benefices being erected, there were also *Canons* therewith made, that whatever part was found in the hand of the Beneficiary at his Death, should be the Churches; and by the Church if it were Collegiate and had a Common Table, was understood the Colledge thereof; But if the Beneficiary was without Colleague, by the Name of Church, was understood the Successor, who was to Administer that Remainder or Residue, after the same manner as the Deceased Predecessor was Obliged unto, so 'twas wont to be done until the year 1300. But because the Beneficed Clergy-men had oftentimes other Goods of their own Patrimony, or else gain'd by his own Art and Industry, 'twas therewith said, that of these he was the Absolute Master, and might leave them by Will to whom he pleased; but of the Incomes of the Benefice he might not Dispose, by reason of Death. From whence it follow'd, that Clergy-men Possessors of small Benefices, not exceeding the expences, made a Will of all they had, and if by sparing they had Advanced any thing to the Benefice, they reputed it gain'd by Industry, and Disposed of it in the same manner, which hath brought in a Custom in many Christian Kingdoms, that men of Inferior Benefices may make their Will, likewise of the Incomes of their Benefices, and not making a Will, the Heirs of the Intestate Succeed, as also in the Patrimonials. But that which was left by the *Bishops*, remained to the Church according to the Antient *Canons*.

249. After this, the Bishops also through Custom in many Christian Kingdoms acquired the Power of making Wills, even of the Ecclesiastical Fruits, so that about the year 1300, in divers Countries there were three Different Customs found; 1. One where no Clergy-man might Dispose of the Incomes of Benefices advanced them, 2^{ly}, The other where

where the Incomes were upon the same Account, as things Patrimonial and their own, 3^{ly}, the third where Inferior Clergy-men bequeathed or disposed, but what was left by the Bishops went to the Church.

N. 250.

In the times after 1300, when the *Popes* of *Rome* had more need of Money than ordinary, they sent their Ministers into the Kingdoms where the Churches were wont to Inherit the Deceased Beneficed mans Estate, who before the Successor was Chosen, applyed all to the *Popes Chamber*, which thing Succeeded easily, because the Benefice becoming Vacant, there was none would Contradict it for his own Interest, and the Successor being Created he acquiesced in a thing done without any more ado. They began to send such Ministers into all places where they could, and to lay claim to that which was left by the Deceased, by the Name of Booty or Spoyles, and the *Popes* Officers sent for them, ^{Booty or Spoyles, Collectors.} were call'd Collectors. The *Popes* took these Spoyles where they could in this manner, silently without any Order or Law therein which might grant the same, but alwayes with some Murmuring, as well by the Heirs of the Deceased Priests, as also by other Persons, through the severe Extorsions which the Collectors and the Sub-Collectors made, who brought into the Account of Spoyles or Booty, the very Ornaments of the Churches, and gave also much Molestation to Heirs upon Goods gain'd by Industry, or received from the Patrimony, endeavouring to make them appear to be taken out of the *Benefices*, and doubtful of what quality they were, giving Sentence that they belong'd to the Chamber, vexing and tiring those who Opposed them, with Excommunications and Censures.

251.

In *France* the use or custom had Introduced that the *Spoyles* of *Bishops* and *Abbeys* should be applied to the *Pope*. And in the year 1385, *Charles* the 6th Prohibited it, Ordaining that Heirs should have the Succession as well in them, as in Patrimonial Goods; In many Countries the Custom being Introduced, is Continued unto this Age, when by the Extorsion of the Collectors, the Complaints of many encreased so much, that some had the boldness to Oppose it openly, and to deny that the Spoyles of the Deceased Clergy-men belonged to the *Popes* Chamber. Wherefore in the year 1541, *Paul* the 3^d was the first who made a *Bull* upon this matter, where 'tis Related that some Curious Persons to Usurp to themselves the Rights of the Apostolick Chamber, and to Defraud it, did call in question, whether the Estates of Prelates, and of other Ecclesiastical Persons called Spoyles belonged to the Chamber, there being no Apostolical Constitution which Appropriates it, though indeed by the sending Collectors into divers places, it appears clearly to have been the mind of the Apostolick *See*, to reserve them and apply or appropriate them to the Chamber, wherefore he Declares, Ordains, and Constitutes, that to the Pontifical Chamber shall belong the Spoyles of all the Clergy-men Deceased in whatsoever Kingdoms and Dominions, as well on this side, as beyond the *Alpes*, so likewise on this side, as well as beyond the Seas, although Collectors have never been appointed in them.

252.

So that the over-Diligent being willing to free some few Provinces from this Grievance or Burthen, have been Cause they have been Imposed all the World over: But yet it is not come to Execution, except in the usual places, but it hath thus happen'd in all things, as the World makes of Novelties, left off for sometime without Execution, and afterwards with a good Opportunity, as if they had been Executed in

253.

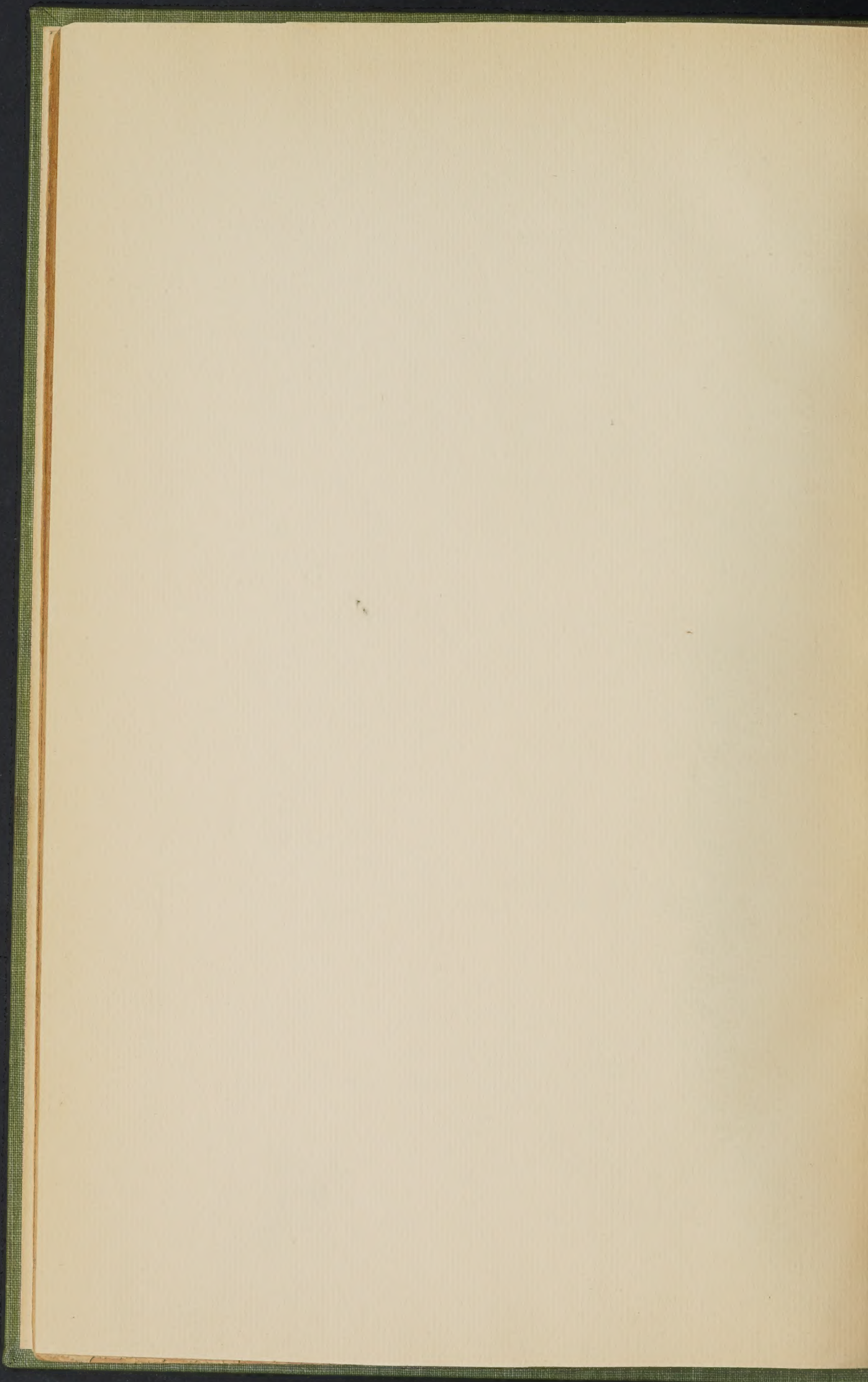
due time, and by the Malice of some brought out of Use, by Censures and other Violences they are put in Execution.

The Spoyles unto the year 1560, Comprehended nothing but that which was found at the Clergy-mans Death, proceeding from Ecclesiastical Incomes.

N. 254. In the year abovesaid *Pius quartus* made a *Bull*; that under the Name of *Spoyles*, which throughout the World, in all Dominions on this side and beyond the *Alps* and the Seas, belong to the *Chamber*, is to be understood also, all that which the Clerk shall gain by Unlawful Merchandize, and otherwise Contrary to the *Canons*, a thing which Comprehends Sufficiently, because Unlawful Merchandize they call where the thing such as it is bought, so it is sold. And then by the *Canons* the Clergy-men are forbidden many kinds of Games in use, and many Services, by which wayes there is gotten sufficiently, so that hereby was return'd a great gain to the Chamber, and 'twould be a great Income, if the *Bulls* could be Executed throughout half *Italy*, where they are not yet in Execution, and in *France*, and in *Germany*, and in other Kingdoms which have not yet received them; like as in the *Kingdoms* of *Castilia* they make not Spoyles of all the Clergy-men, but of the Bishops only, by the Laws of *Carolus quintus*, and of *Philip* the 2d.

255. The *Canonists* Defend the Right of the *Spoyles* with this Foundation, that the Pope is Patron or Master of all Ecclesiastical Incomes, and those who speak the most Modestly, say, Administrator; by which Doctrine there is also Introduced into *Rome*, that if any one hath unduly Usurped to himself any Benefice, or otherwise shall have Robb'd the Church, if he agree with the Apostolick Chamber, to give a share of it thereto, he may hold the Remainder with a good Conscience, and the Agreement being made and paid as much as was limited, let every one say, he is Absolved of the rest, and may hold it Lawfully as his own, because the Pope is as hath been said, either Master or Administrator General; and this they call Compounding with the *Apostolick Chamber*, which comes to be very largely Extended, so that those who in Conscience know, or at leastwise doubt of having something not their own, and there is no ——— that either it is not known whom to Restore it, Composition is made.

F I N I S.



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